CODE OF ORDINANCES
TOWN OF
MORRISVILLE, NORTH CAROLINA

_____

Published by Order of the Mayor and Board of Commissioners

_____

M	MUNICIPAL CODE CORPORATION
CC	Tallahassee, Florida 1994

OFFICIALS

of the

TOWN OF

MORRISVILLE, NORTH CAROLINA

AT THE TIME OF THIS CODIFICATION

_____vs>

Ernest Lumley

Mayor

_____

Leavy Burbee

Margaret Broadwell

Billy Sauls

Bill Sorrell
Bill Ufferman

Town Board of Commissioners

_____

John A. Crumpton

Town Manager

_____

Frank Gray

Town Attorney

_____

Evelyn Lumley

Town Clerk

PREFACE

This Code constitutes a complete codification of the general and permanent ordinances of the Town of Morrisville, North Carolina.

Source materials used in the preparation of the Code were the ordinances adopted by the mayor and board of commissioners. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken

that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix.

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Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Jan Shekitka, Supervising Editor, and Laura Johnson, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other

members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Evelyn Lumley, Town Clerk, and Frank Gray, Town Attorney, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

	MUNICIPAL CODE CORPORATION Tallahassee, Florida

ADOPTING ORDINANCE
ORDINANCE NO.

An Ordinance Adopting and Enacting a New Code for the Town of Morrisville; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

Be It Ordained by the Board of Commissioners of the Town of Morrisville:

Section 1. The Code entitled "Code of Ordinances, Town of Morrisville, North Carolina" published by Municipal Code Corporation consisting of Chapters 1 through 66, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before October 11, 1993, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof, shall be punished in accordance with G.S. 14-4. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided shall apply to the amendment of any Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the town may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in the form as to indicate the intention of the board of commissioners to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after October 11, 1993 that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective

Passed and adopted by the board of commissioners this * day of *.

Ernest Lumley

_____

Mayor

Evelyn Lumley

_____

Town Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true copy of the ordinance passed at the regular meeting of the Board of Commissioners of the Town of Morrisville, North Carolina held on the * day of *.

Evelyn Lumley

_____

Town Clerk

CODE OF ORDINANCES

Town of

MORRISVILLE, NORTH CAROLINA

Codified through

Ord. No. 01-56, adopted Sept. 10, 2001.

Supplement No. 4

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PART I

CHARTER*

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* **Editors Note:** Printed herein is the Charter of the Town of Morrisville, as adopted by chapter 776 of the Session Laws of 1947, and ratified by the legislature on April 3, 1947. Amendments to the charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

State Law References: Definition of Charter, G.S. 160A-1.

Sec. 1. Incorporation.
Sec. 2. Corporate boundaries; ratification of certain actions.
Sec. 3. Composition of governing body.
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Sec. 5. Board of commissioners--General powers.
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Sec. 10. Same--Vacancies.
Sec. 11. Same--Compensation.
Sec. 12. Ratification.

Sec. 1. Incorporation.

That the Town of Morrisville, in the County of Wake, be and the same is hereby incorporated, by the name and style of "The Town of Morrisville," and shall be subject to all of the provisions contained in G.S. ch. 160 [G.S. ch. 160A], not inconsistent with the Constitution and Laws of North Carolina or of the United States, also subject to the general law relating to municipal corporations not inconsistent with this Act.

Sec. 2. Corporate boundaries; ratification of certain actions.

[1.] That the corporate limits of said town shall be as follows:

Beginning at a point on the center line of the Southern Railway sixty-nine and five-tenths (69.5) feet North of bridge over Crabtree Creek and running S. 68° 00' W. seven hundred thirteen and six-tenths (713.6) feet to a concrete monument; thence N. 36° 00' W. thirty-seven hundred and sixty-six and eight-tenths (3766.8) feet to a concrete monument; thence N. 78° 15' E. seventeen hundred one and two-tenths (1701.2) feet to a point in center of Southern Railway track; thence N. 68° 15' E. eight hundred ninety-five and four-tenths (895.4) feet to a concrete monument; thence S. 15° 03' E. thirty-one hundred seventy-four (3174.0) feet to a concrete monument; thence S. 49° 26' W. five hundred ninety-one and five-tenths (591.5) feet to the point of beginning, containing 148.44 acres, according to a survey and map made by Max Collins, Jr., and checked by W.B. Jones in January 1949.

[2.] The actions of the Board of Commissioners of the Town of Morrisville taken to annex the following described areas are hereby ratified, validated, and confirmed, and the corporate limits of the Town of Morrisville are hereby declared to include such areas:

(a) *First tract.* All that certain tract of land lying in Wake County on the western side of N.C. Highway No. 54 and on the eastern side of the Southern Railway property and belonging, now or formerly, to W.A. Green according to a survey by C.R. Edgerton in April 1964, and being more particularly described according to that survey, as follows:

Beginning at an iron stake in the western margin of N.C. Hwy. 54, said point being the southeastern corner of the tract owned by L. Edward Gallup and also located S 68° 15' W 68.18 feet from the northwest corner of lot no. 1 in the Green Woods Subdivision as shown on the map recorded in Map Book 1975, Vol. II, Page 234 of the Wake County Registry, and runs thence S 68° 15' W 518.7 feet to an iron stake in the eastern margin of the Southern Railway Company property; then with said eastern margin of the railway property, parallel to and 100.0 feet from the centerline of the track, S 13° 59' E 224.8 feet to a point; thence S 17° 39' E 125.45 feet to a point; thence S 19° 32' E 97.73 feet to an iron stake, a corner of the E.G. Herndon estate; thence leaving the railway company property and running with said Herndon line, N 84° 00' E 418.0 feet to an iron stake in the western margin of N.C. Hwy. 54; thence with said margin of the highway, N 02° 06' W 261.6 feet to a point; thence N 85° 57' W 106.65 feet to a point; thence N 09° 47' W 105.32 feet to a point; thence N 13° 37' W 111.1 feet to the point of beginning, containing 5.76 acres.

(b) *Second tract.* All that tract of land lying in Wake County on the eastern side of N.C. Hwy. 54 and comprised of two parcels, one parcel being Green Woods Subdivision as shown in Book of Maps 1975, Vol. II, Page 234, and the other parcel being that shown on a map by Boney & Newcomb dated April 1971, containing 31.9 acres and entitled "Addition to Corporate Limits," Town of Morrisville. The Second Tract is more particularly described as follows:

Beginning at an iron stake in the eastern margin of N.C. Highway No. 54, said point being the northwest corner of Green Woods Subdivision, and running thence with the line between said subdivision and the property of Stella C. Green, N 80° 03' 38" E 202.71 feet; thence S 88° 00' 00" E 394.07 feet; thence S 89° 03' 45" E 345.65 feet; thence N 30° 39' 19" W 52.59 feet; thence N 46° 51' 51" W 86.32 feet; thence N 09° 36' 51" W 103.81 feet; thence N 24° 58' 11" E 87.69 feet; thence N 49° 33' 11" W 155.74 feet; thence N 08° 34' 06" W 64.81 feet; thence N 35° 49' 36" W 140.96 feet; thence N 17° 50' 36" W 41.76 feet to a point in the line of Mobile City; thence with the line of the Mobile City property, S 81° 06' 54" E 1094.78 feet to a concrete monument; thence S 37° 30' 09" E 1797.81 feet to a concrete monument in the northern margin of the Airport Road (SR No. 1002); thence with said road margin S 46° 00' 25" W 342.74 [feet] to the corner of Henry M. Hooks' property; thence with his line, N 28° 48' 09" W 300.25 feet to an iron stake; thence S 46° 00' 31" W 149.90 feet to an iron stake in the line of Willie H. Bishop; thence with said line, N 29° 48' 28" W 442.79 feet to an iron stake; thence N 29° 41' 43" W 207.29 feet to Bishop's northeast corner; thence S 45° 49' 21" W 133.88 feet to an iron stake, the corner between said Bishop and Richard N. Wells; thence with Wells' line S 44° 49' 25" W 73.85 feet to an iron stake, the corner of the 31.9 acre parcel mentioned above; thence with the line of said parcel and Richard N. Wells, S 39° 59' W 209.33 feet to an old angle iron; thence S

34° 59' E 376.51 feet to an iron pipe, Wilba Brown's corner; thence with Brown's line S 76° 32' W 396.70 feet to an iron pipe; thence S 19° 51' E 33.30 feet to an iron pipe, Emmett Hollway's corner; thence as Hollway's line S 15° 23' W 361.04 feet to an iron pipe, Luther G. Burton's corner with Hollway and Julia W. Cotten; thence with the Cotten line, S 73° 31' W 230.72 feet to a marked tree; thence S 70° 34' W 431.57 feet to an iron pipe; thence S 70° 38' W 185.27 feet to an iron pipe, the corner between Julia W. Cotten and Peggy C. Ridout in the line of the present Town limits; thence with said Town limits, N 15° 03' W 1198.22 feet to a railroad cross tie; thence S 68° 51' W 292.15 feet to an iron pipe in the eastern margin of N.C. Hwy. 54; thence with the eastern margin of the highway, N 01° 34' W 203.5 feet to an iron pipe, the Southwest corner of Green Woods Subdivision; thence continuing with Hwy. 54, N 02° 55' 15" W 100.46 feet; thence N 07° 43' 54" W 177.95 feet; thence N 09° 56' 22" W 114.59 feet to the point of beginning, containing 70.84 acres.

[3.] Any and all official acts, actions, expenditures and levies of taxes or assessments by the Mayor and Board of Commissioners of the Town of Morrisville since March 7, 1975, with respect to or affecting the territory and properties described in Section 1(a) [paragraph 2(a) of this section] of this act and since August 4, 1970, with respect to or affecting the territory and properties described in Section 1(b) [paragraph 2(b) of this section] of this act, are hereby ratified, validated and confirmed.

[4.] Any and all official votes, acts, and actions of any member of the Board of Commissioners of the Town of Morrisville who has resided or who resides in any of the territory described in Section 1 [paragraph 2. of this section] of this act are hereby ratified, validated and confirmed.

[5.] The November 1973 election of H.C. Sears, III; the November 1975 election of Harry D. Dewey and Emma G. Walton; and the November 1977 election of Emma G. Walton to the Town Board by the qualified voters of the Town of Morrisville are hereby ratified, validated and confirmed.
(Sess. Laws 1949, ch. 640, § 1; Sess. Laws 1977, ch. 1202, §§ 1, 2)

State Law References: Annexation by cities of less than 5,000 generally, G.S. 160A-33 et seq.

Sec. 3. Composition of governing body.

That the officers of said corporation shall consist of a mayor and five commissioners, to be elected in accordance with the general laws pertaining to municipal elections.
(Sess. Laws 1975, ch. 802, § 1)

Sec. 4. Residence of electors.

That all resident citizens within said corporation's limit who reside therein four months prior to the election shall be entitled to vote at said election provided they shall be qualified to vote for Members of the General Assembly.

Editors Note: This provision has been superseded by G.S. 163-55 which requires only 30 days to attain residency for voting.

State Law References: Qualifications to vote, G.S. 163-55; residence defined, G.S. 163-57.

Sec. 5. Board of commissioners--General powers.

That said commissioners shall have the power to pass all bylaws, rules and regulations for good government of the corporation not inconsistent with the laws of North Carolina and the United States.

State Law References: Administration of council-manager cities, G.S. 160A-147 et seq.

Sec. 6. Same--Levying of taxes.

That the commissioners shall have the power to levy a tax on all property located within the corporate limits not to exceed $1.00 on the $100.00 valuation of property for general purposes and shall have all other taxing powers and privileges conferred by the general laws of North Carolina pertaining to municipalities, particularly [G.S.] 160A-206 et seq.

Editors Note: This provision has been superseded by G.S. 160A-209(d) which allows property taxes to be levied up to a rate of $1.50 on the $100.00 valuation of property.

State Law References: Levy of property taxes, G.S. 105-347; property taxes, G.S. 160A-209.

Sec. 7. Same--Spending of tax funds collected.

That the commissioners shall have the power to spend the funds collected by taxes in behalf of said corporation for general municipal purposes, including the expenses incident to obtaining this charter.

State Law References: Finance officers, G.S. 159-25(a)(2); power to administer taxes, G.S. 160A-206; power to levy taxes for certain purposes, G.S. 160A-209.

Sec. 8. Same--Appointment of treasurer.

That the commissioners when organized shall have the power to appoint a treasurer, who shall act as secretary, and who shall keep all funds belonging to the corporation and pay the same out under orders of the commissioners. The treasurer shall also keep a record of all of the proceedings of the commissioners and give such bond for the faithful performance of his office as the commissioners require.

State Law References: Finance officers, G.S. 159-24, 159-25.

Sec. 9. Same--Elections.

(a) At the regular municipal election to be held in 1981, and every four years thereafter, a Mayor shall be elected to serve for a four-year term.

(b) At the regular municipal election to be held in 1981, the two candidates for the Board of Commissioners who receive the highest number of votes shall be elected for four-year terms, while the three candidates for the Board of Commissioners who receive the next highest number of votes shall be elected for two-year terms. Beginning at the regular municipal election to be held in 1983, and every four years thereafter, three members of the Board of Commissioners shall be elected to serve for four-year terms. Beginning at the regular municipal election to be held in 1985, and every four years thereafter, two members of the Board of Commissioners shall be elected to serve for four-year terms.

[c] Subject to any referendum petitioned for and conducted pursuant to G.S. 160A-103, this ordinance shall be effective 30 days after publication of notice in a newspaper of general circulation in the Town.

(Sess. Laws 1975, ch. 802, § 2; Ord. of 12-8-80, §§ 1, 2)

State Law References: Municipal election procedure generally, G.S. 163-279 et seq.; conduct of municipal elections generally, G.S. 163-291 et seq.

Sec. 9.1. Same--Election districts.

(a) The Town of Morrisville shall be divided into three single-member election districts. The five-member Town Board of Commissioners shall be composed of two members elected at large, and one member representing each of the election districts. Candidates for the election district seats shall reside in and represent the election districts, but all candidates shall be elected by all the qualified voters of the Town, as provided by G.S. 160A-101(2).

(b) The three election districts shall be designated as District 1, District 2 and District 3. The boundaries for these election districts are set forth on the map maintained permanently in the office of the Town Clerk.

(c) Beginning at the regular municipal election to be held in 1987 and every four years thereafter, one at-large Commissioner, and the Commissioners from District 1 and District 3 shall be elected. Beginning at the regular municipal election in 1989 and every four years thereafter, one at-large Commissioner, the Commissioner from District 2, and the Mayor shall be elected.

(d) The Town shall continue to have its elections conducted under the nonpartisan plurality method of election.

[(e)] A map showing the current boundaries of Districts 1, 2 and 3 is attached to this ordinance and incorporated herein by reference. The Town Board may amend the boundaries of the election districts from time to time in accordance with G.S. 160A-22 and 160A-23.

[(f)] Subject to any referendum petitioned for and conducted pursuant to G.S. 160A-103, this ordinance shall be effective 30 days after publication of notice in a newspaper of general circulation in the Town.

[(g)] The Town Clerk is directed to publish in a newspaper of general circulation notice of the adoption of this ordinance.
(Ord. of 6-8-87, §§ 1--4)

Sec. 10. Same--Vacancies.

That in the event of a vacancy occurring in the board of commissioners and/or mayor, the remaining number shall fill the vacancy.
State Law References: Vacancies, G.S. 160A-63.

Sec. 11. Same--Compensation.

That the commissioners of said town shall be authorized and empowered to allow reasonable compensation to the officers herein provided for and all municipal employees and all persons who render services to said town under the authority of the commissioners.
State Law References: Compensation, G.S. 160A-64.

Sec. 12. Ratification.

That this Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1947.

CHARTER COMPARATIVE TABLE
ORDINANCES

This table shows the location of amendments to the Charter that were adopted by ordinance.

Date	Section	Section this Charter
12- 8-80(Ord.)	1, 2	9
6- 8-87(Ord.)	1--4	9.1

CHARTER COMPARATIVE TABLE
SESSION LAWS

This table shows the location of the sections of the basic Charter and any amendments thereto that were adopted by Special Act.

Session Laws Year	Chapter	Section	Section this Charter
1947	776	1--12	1--12
1949	640	1	2
1975	802	1	3
		2	9
1977	1202	1, 2	2

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.
Sec. 1-2. Definitions and rules of construction.
Sec. 1-3. Provisions considered continuation of existing ordinances.
Sec. 1-4. Catchlines, history notes and references.
Sec. 1-5. Severability of parts of Code.
Sec. 1-6. General penalty; enforcement of ordinances; continuing violations.
Sec. 1-7. Amendments to Code; effect of new ordinances; amendatory language.
Sec. 1-8. Supplementation of Code.
Sec. 1-9. Ordinances not affected by Code.

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, Town of Morrisville, North Carolina" and may be so cited. Such Code may also be cited as the "Morrisville Town Code."

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the board of commissioners or the context clearly requires otherwise:

Board of commissioners. The phrase "board of commissioners" shall mean the governing body of the Town of Morrisville, North Carolina.

Charter. The word "charter" shall mean the Charter of the Town of Morrisville as printed in Part I of this Code.

Code. The word "Code" shall mean the Code of Ordinances, Town of Morrisville, North Carolina, as designated in section 1-1.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Saturday, Sunday or a legal holiday, it shall be excluded. When the period of time is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

State Law References: Computation of time, G.S. 1-593.

County. The word "county" shall mean the County of Wake in the State of North Carolina, except as otherwise provided.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Month. The word "month" shall mean a calendar month.

Number. Words used in the singular include the plural, and the plural includes the singular number.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officers, employees, boards, etc. Whenever reference is made to officers, employees, boards and the like by title only, they shall be construed as if followed by the words "of the Town of Morrisville, North Carolina."

Official time standard. Whenever certain hours are named in this Code, they shall mean standard time or daylight saving time, as may be in current use in this town.

Owner. The word "owner," applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such property.

Person. The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Personal property. The term "personal property" includes every species of property, except real property as defined in this section.

Preceding, following. The words "preceding" and "following" shall mean next before and next after, respectively.

Property. The word "property" shall include real and personal property.

Real property. The term "real property" shall include lands, tenements and hereditaments.

Shall; may. The word "shall" is mandatory, and the word "may" is permissive.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

Signature or *subscription.* A "signature" or "subscription" includes a mark when the person cannot write.

State. The word "state" shall be construed to mean the State of North Carolina, except as otherwise provided.

Statute references. The terms "General Statutes" or "G.S." shall refer to the latest edition of the General Statutes of North Carolina, as amended.

Street. The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the town and shall mean the entire width of the right-of-way between abutting property lines.

Tenant or *occupant.* The word "tenant" or "occupant" applied to a building or land shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Town. The words "the town" shall mean the Town of Morrisville, in the County of Wake and in the State of North Carolina, except as otherwise provided.

Writing. The words "writing" and "written" shall include printing and any other mode of representing words and letters.

Year. The word "year" shall mean a calendar year.

State Law References: Similar definitions and rules of construction, G.S. 12-3.

Sec. 1-3. Provisions considered continuation of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of ordinances adopted prior to the adoption of this Code and included herein, shall be considered as continuations thereof and not as new enactments.

Sec. 1-4. Catchlines, history notes and references.

(a) The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections nor as any part thereof, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(b) The history notes following sections of the Code and the references scattered throughout the Code are for the benefit of the user only and are not a part of this Code.

Sec. 1-5. Severability of parts of Code.

It is hereby declared to be the intention of the board of commissioners that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since they would have been enacted by the

board of commissioners without the incorporation in this Code of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Sec. 1-6. General penalty; enforcement of ordinances; continuing violations.

(a) Unless otherwise specifically provided, violation of any provision of this Code or any other town ordinance shall be a misdemeanor, as provided by G.S. 14-4.

(b) Any provision of this Code or any other town ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the town for equitable relief that there is an adequate remedy at law.

(c) Any provision of this Code or any other town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the general court of justice shall have jurisdiction to issue such orders. When a violation of such a provision occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular. In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Code or such ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(d) The provisions of this Code and any other town ordinance may be enforced by any one, all or a combination of the remedies authorized and prescribed by this section.

(e) Except as otherwise specifically provided, each day's continuing violation of any provision of this Code or any other town ordinance shall be a separate and distinct offense.

State Law References: Enforcement of ordinances, G.S. 160A-175.

Sec. 1-7. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system hereof and printed for inclusion herein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from this Code by omission from reprinted pages. The subsequent ordinances as numbered

and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the board of commissioners.

(b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, Town of Morrisville, North Carolina, is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full as desired.

(c) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, Town of Morrisville, North Carolina, is hereby amended by adding a section, to be numbered _____, which section reads as follows: . . . ." The new section shall then be set out in full as desired.

(d) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

Sec. 1-8. Supplementation of Code.

(a) By contract or by town personnel, supplements to this Code shall be prepared on an annual basis. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the board of commissioners during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions.

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section

numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code).

(5) Make other nonsubstantive changes necessary to preserve the original meanings of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-9. Ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness;

(3) Any contract or obligation assumed by the town;

(4) Any ordinance fixing the salary of any town officer or employee;

(5) Any right or franchise granted by the town;

(6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the town;

(7) Any budget or appropriation ordinance;

(8) Any ordinance which, by its own terms, is effective for a stated or limited term;

(9) Any ordinance providing for local improvements and assessing taxes therefor;

(10) Any zoning or subdivision ordinance;

(11) Any ordinance dedicating or accepting any subdivision plat;

(12) Any ordinance describing or altering the boundaries of the town;

(13) The administrative ordinances or resolutions of the town not in conflict or inconsistent with the provisions of this Code;

(14) Any ordinance levying or imposing taxes not included herein;

(15) Any ordinance establishing or prescribing street grades in the town;

nor shall such ordinance be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this chapter; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Cross References: Zoning and subdivision regulations, § 46-1.

Statutes not repealed by General Statutes, G.S. 164-7.

Chapter 2

ADMINISTRATION*

* **Cross References:** Administration and flood damage prevention ordinance, § 26-66 et seq.; law enforcement, ch. 30.
State Law References: Cities and towns, G.S. 160A-1 et seq.

Article I. In General

Sec. 2-1. Extraterritorial planning and zoning jurisdiction.
Sec. 2-2. Absentee ballots.
Secs. 2-3--2-40. Reserved.

Article II. Board of Commissioners

Secs. 2-41--2-60. Reserved.

Article III. Officers and Employees

Secs. 2-61--2-80. Reserved.

Article IV. Boards, Commissions and Committees

Secs. 2-81--2-100. Reserved.

Article V. Finance

Sec. 2-101. Title.
Sec. 2-102. Jurisdiction.
Sec. 2-103. Purpose.
Sec. 2-104. Application.
Sec. 2-105. Writing off of uncollectible tax receivables.

ARTICLE I.

IN GENERAL

Sec. 2-1. Extraterritorial planning and zoning jurisdiction.

(a) The extraterritorial jurisdiction boundaries as delineated on the map entitled "Town of Morrisville, North Carolina, revisions to ETJ, May 18, 1987," now on file in town hall and open to inspection to the public, are hereby adopted as the official boundaries of the town's extraterritorial planning and zoning jurisdiction.

(b) The town clerk is hereby directed to maintain this official ETJ map permanently in the offices of town hall. The map shall be recorded with the office of the register of deeds for the county.

(c) The town staff and planning board are hereby directed to study the areas newly included in the town's jurisdiction by this section and to recommend to the town board appropriate zoning for these parcels of land.
(Ord. of 7-27-87, §§ 1--3)
Cross References: Planning and development, ch. 46.

State Law References: Register of deeds, duties, G.S. 160A-29, 160A-39; city clerk, duties, G.S. 160A-22, 160A-171; extraterritorial jurisdiction, G.S. 160A-360 et seq.

Sec. 2-2. Absentee ballots.

Absentee ballots shall be allowed in regular town elections in accordance with G.S. 163-226 et seq. and G.S. 163-245 et seq.
(Res. No. 93-7A, § 1)

State Law References: Authority to adopt a resolution regarding absentee voting, G.S. 163-302.

Secs. 2-3--2-40. Reserved.

ARTICLE II.

BOARD OF COMMISSIONERS*

* **State Law References:** Composition of governing body, G.S. 160A-66.

Secs. 2-41--2-60. Reserved.

ARTICLE III.

OFFICERS AND EMPLOYEES*

* **Cross References:** Animal control department, § 6-3; duties of fire chief, § 22-40; personnel, ch. 42; public employees subject to traffic regulations, § 58-5; interference with town employees or officials prohibited, § 66-42.

State Law References: Officers and employees, G.S. 160A-147 et seq.

Secs. 2-61--2-80. Reserved.

ARTICLE IV.

BOARDS, COMMISSIONS AND COMMITTEES*

* **Cross References:** Animal control advisory committee, § 6-2; parks and recreation advisory committee, § 38-41 et seq.

Secs. 2-81--2-100. Reserved.

ARTICLE V.

FINANCE*

* **State Law References:** Local government finance, G.S. 159-1 et seq.

Sec. 2-101. Title.

This article shall be known and may be cited as the property tax write-off policy of the town.
(Ord. No. 92-52, § 1, 6-22-92)

Sec. 2-102. Jurisdiction.

This article is effective in regard to all property taxes, both real and personal, in all areas of the town where such taxes are collected.
(Ord. No. 92-52, § 2, 6-22-92)

Sec. 2-103. Purpose.

It is the purpose of this article to aid in easing the task of bookkeeping by allowing for the omission of entries which no longer are considered relevant.
(Ord. No. 92-52, § 3, 6-22-92)

Sec. 2-104. Application.

The provisions of this article shall apply to uncollectible property tax receivables as a result of bankruptcy, insolvency or limitations imposed by statute.
(Ord. No. 92-52, § 4, 6-22-92)

Sec. 2-105. Writing off of uncollectible tax receivables.

Those tax receivables found to be uncollectible shall be written off (forgiven and removed from the town's tax scroll) in the following manner:

(1) Once all notices have been published in accordance with the department of state treasurer's policies manual, attempts at notification by certified mail have proved unsuccessful (undeliverable), the finance officer will prepare a list of such uncollectible tax receivables recommended for writing off.

(2) The list, as described in subsection (1) of this section, shall be presented to the board of commissioners during the first June meeting of every year.

(3) The board of commissioners will vote as to whether or not to accept the recommendations of the finance officer for the writing off of taxes.

(4) If the board accepts the recommendations of the finance officer, the finance officer is empowered to remove those uncollectible tax receivables from the town's tax scrolls. However, if the board does not accept all of the recommendation, the finance officer will continue to carry these tax receivables on the books and continue pursuing collection.

(Ord. No. 92-52, § 5, 6-22-92)

Chapters 3--5

RESERVED

Chapter 6

ANIMALS*

* **Editors Note:** Ord. No. 01-45, § 1, adopted Aug. 13, 2001, repealed former ch. 6 in its entirety, which pertained to animals and derived from and ordinance adopted June 12, 1973; an ordinance adopted May 24, 1982, §§ 18-1--18-9, 18-11--18-28; Ord. No. 90-18, §§ 1, 3, adopted March 26, 1990; Ord. No. 97-11, §§ 1, 3, adopted March 10, 1997; and Ord. No. 00-12, §§ 1, 4, adopted March 13, 2000.Sections 2 and 3 of Ord. No. 01-45 enacted new provisions which have been included herein as § 6-1 at the editor's discretion.

Sec. 6-1. County animal control ordinance adopted; enforcement.

Sec. 6-1. County animal control ordinance adopted; enforcement.

(a) The current county animal control ordinance and subsequent amendments are hereby adopted for use within the corporate limits of the town.

(b) The county is hereby authorized to enforce all provisions of its duly adopted animal control ordinance within the corporate limits of the town and to respond to all calls for service under its ordinance. (Ord. No. 01-45, §§ 2, 3, 8-13-01)

Chapters 7--9

RESERVED

Chapter 10

BUILDINGS AND BUILDING REGULATIONS*

* **Cross References:** Abandoned structures, § 18-146 et seq.; fire prevention and protection, ch. 22; floods, ch. 26; planning and development, ch. 46; construction debris, § 50-1; streets, sidewalks and other public places, ch. 54; utilities, ch. 62.

State Law References: Municipal authority to regulate the construction of buildings, G.S. 160A-412.

Sec. 10-1. Fire limits established.
Sec. 10-2. Building permit fee schedule.
Sec. 10-3. No concealed handguns; posting of signs required.
Sec. 10-4. No display of firearm.

Sec. 10-1. Fire limits established.

The boundaries of the village core district, as shown on the current town land use plan, are hereby established as the primary fire limits of the town.
(Ord. No. 92-55, § 1, 7-13-92)

State Law References: Establishment of fire limits required, G.S. 160A-435.

Sec. 10-2. Building permit fee schedule.

The building permit fee schedule and the inspection and development fee schedules are set from time to time by the mayor and board of commissioners and are on file and available for public inspection in the town offices.
(Ord. No. 90-55, § 1, 10-8-90; Ord. No. 92-13, § 1, 2-24-92)

Sec. 10-3. No concealed handguns; posting of signs required.

(a) The town manager is hereby authorized and instructed to post conspicuous signage at appropriate locations on or within town hall, town parks and each building or portion of a building owned, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to such buildings, indicating that carrying a concealed handgun is prohibited therein.

(b) Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The town manager shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.
(Ord. No. 96-12, § 1, 3-11-96)

Sec. 10-4. No display of firearm.

It is unlawful for any person to display a firearm in the town hall, at town parks, in the town community center, or on town property.
(Ord. No. 96-12, § 1, 3-11-96)

Chapters 11--13

RESERVED

Chapter 14

CIVIL EMERGENCIES*

* **Cross References:** Water shortage conservation measures, § 18-2; fire prevention and protection, ch. 22; floods, ch. 26.
State Law References: Municipal emergency management, G.S. 166A-7 et seq.

Article I. In General

Secs. 14-1--14-40. Reserved.

Article II. Emergencies

Sec. 14-41. Existence of state of emergency.
Sec. 14-42. Mayor to proclaim state of emergency; curfew.
Sec. 14-43. Curfew defined.
Sec. 14-44. Certain acts prohibited during emergency.
Sec. 14-45. Exemptions from curfew.
Sec. 14-46. Cessation upon mayor's proclamation.

ARTICLE I.

IN GENERAL

Secs. 14-1--14-40. Reserved.

ARTICLE II.

EMERGENCIES*

* **State Law References:** Municipal authority to enact ordinances regarding states of emergency, G.S. 14-288.12--14-288.14.

Sec. 14-41. Existence of state of emergency.

A state of emergency shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property.
(Ord. of 8-27-79, § 3-7)

Sec. 14-42. Mayor to proclaim state of emergency; curfew.

In the event of an existing or threatened state of emergency endangering the lives, safety, health, and welfare of the people within the town or threatening damage to or destruction of property, the mayor is hereby authorized and empowered to issue, in writing, a public proclamation declaring the existence of a state of emergency, and, in order more effectively to protect the lives, safety and property within the town, to define and impose a curfew applicable to all persons within the jurisdiction of the town.
(Ord. of 8-27-79, § 3-8)

Sec. 14-43. Curfew defined.

Curfew, as used in this article, shall mean a prohibition against any person walking, running, loitering, standing, or motoring upon any street, alley, roadway or other public property.
(Ord. of 8-27-79, § 3-9)

Sec. 14-44. Certain acts prohibited during emergency.

During the existence of a proclaimed state of emergency when a curfew has been imposed, no person subject to such curfew shall:

(1) Be or travel upon any public street, alley or roadway or upon public property, unless in search of medical assistance, food, or other commodity or service necessary to sustain the well being of himself or his family or some member thereof;

(2) Possess off one's premises, buy, sell, give away, or otherwise transfer or dispose of any explosives, firearms, ammunition or dangerous weapon of any kind;

(3) Sell beer, wine, or intoxicating beverages of any kind or to possess or consume the same off one's premises;

(4) Sell gasoline or any other similar petroleum products, or any other inflammable substances, except as expressly authorized by the provisions of the curfew imposed.

(Ord. of 8-27-79, § 3-10)

Sec. 14-45. Exemptions from curfew.

The mayor is hereby authorized and empowered to limit the application of a curfew to any area specifically designated and described within the corporate limits of the town and to specific hours of the day or night; and to exempt from the curfew police officers, firefighters, doctors, nurses and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the town.
(Ord. of 8-27-79, § 3-11)

Sec. 14-46. Cessation upon mayor's proclamation.

The mayor shall proclaim the end of a state of emergency and curfew as soon as circumstances warrant or when directed to do so by the board of commissioners.
(Ord. of 8-27-79, § 3-12)

Chapters 15--17

RESERVED

Chapter 18

ENVIRONMENT

Article I. In General

Sec. 18-1. Smoking restricted.
Sec. 18-2. Water shortage conservation measures.
Secs. 18-3--18-40. Reserved.

Article II. Noise

Sec. 18-41. Penalty.
Sec. 18-42. Unnecessary noises.
Sec. 18-43. Noises expressly prohibited.
Sec. 18-44. Construction noise.
Secs. 18-45--18-65. Reserved.

Article III. Nuisances

Division 1. Generally

Secs. 18-66--18-80. Reserved.

Division 2. Noxious Weeds, Grass and Refuse

Sec. 18-81. Jurisdiction.
Sec. 18-82. Unlawful conditions deemed public nuisance.
Sec. 18-83. Investigation.
Sec. 18-84. Nuisance abatement procedures.
Sec. 18-85. Notification and collection of civil penalties.
Sec. 18-86. Recovery of town abatement costs.
Sec. 18-87. Creation of lien.
Sec. 18-88. Additional remedies.
Secs. 18-89--18-110. Reserved.

Division 3. Junked Motor Vehicles

Sec. 18-111. Definitions.
Sec. 18-112. Administration.
Sec. 18-113. Abandoned vehicle unlawful; removal authorized.
Sec. 18-114. Nuisance vehicle unlawful; removal authorized.
Sec. 18-115. Junked motor vehicle regulated; removal authorized.
Sec. 18-116. Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements.
Sec. 18-117. Exceptions to prior notice requirement.
Sec. 18-118. Removal of vehicles; post-towing notice requirements.
Sec. 18-119. Right to probable cause hearing before sale or final disposition of vehicle.
Sec. 18-120. Redemption of vehicle during proceedings.
Sec. 18-121. Sale and disposition of unclaimed vehicle.
Sec. 18-122. Conditions on removal of vehicles from private property.
Sec. 18-123. Protection against criminal or civil liability.
Sec. 18-124. Exceptions.
Sec. 18-125. Unlawful removal of impounded vehicle.
Secs. 18-126--18-145. Reserved.

Division 4. Abandoned Structures

Sec. 18-146. Findings; intent.
Sec. 18-147. Duties of code enforcement administrator.
Sec. 18-148. Powers of the code enforcement administrator.
Sec. 18-149. Standards for enforcement.
Sec. 18-150. Procedure for enforcement.

Sec. 18-151. Methods of service of complaints and orders.
Sec. 18-152. In rem action by code enforcement administrator; placarding.
Sec. 18-153. Costs a lien on premises.
Sec. 18-154. Alternative remedies.
Secs. 18-155--18-200. Reserved.

Article III. Storm Drainage

Sec. 18-201. Purpose.
Sec. 18-202. Definitions.
Sec. 18-203. Non-stormwater discharge controls.
Sec. 18-204. Enforcement.

ARTICLE I.

IN GENERAL

Sec. 18-1. Smoking restricted.

(a) *Definition.* The term "smoking" shall mean the inhaling, exhaling, burning or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product.

(b) *Prohibited in municipal buildings.* It shall be unlawful for any person to smoke in any building or facility or portion of a building or facility owned, leased, operated, occupied, managed or controlled by the town.

(c) *Prohibited in municipal vehicles.* It shall be unlawful for any person to smoke in any vehicle owned or leased by the town.

(d) *Penalty.* Violation of this section shall subject the offender to a civil penalty in the amount of $25.00 per offense.

(e) *Conflict of laws.* If any portion of this section or the enforcement thereof is found to be preempted by state or federal law, such preemption shall not operate to invalidate the rest of the section and the section shall remain in full force and effect.
(Ord. No. 93-57, §§ 1--5, 8-23-93)

State Law References: Smoking in public places, G.S. 143-595 et seq.

Sec. 18-2. Water shortage conservation measures.

(a) For the protection of the public health, welfare and safety of the town, the town manager is authorized to adopt water conservation measures, and to enforce such conservation measures when the town manager determines that an emergency exists in the town because of an impending shortage of water due to a prolonged drought or problems with the town's treated water supply and/or distribution system ("water emergency"). The town manager may impose such water conservation measures on all water users of the town for such period of time as the manager determines constitutes a water emergency.

(b) The conservation methods, adopted in the form of a town policy shall apply to all persons using town water, including hose customers located outside of the town's jurisdictional boundaries. The conservation

measures may restrict business and industrial uses of water, and may restrict such uses as irrigation, the washing of motor vehicles and equipment, outdoor surfaces, buildings, and machinery, and the use of water for ornamental fountains and swimming pools. The conservation measures may also include provisions for interruption of water service and for the establishment of water conserving schedules of uses.
(Ord. No. 95-69, 9-11-95)

Cross References: Civil emergencies, ch. 14; water and sewer service, § 62-56 et seq.

Secs. 18-3--18-40. Reserved.

ARTICLE II.

NOISE*

* **Cross References:** Barking dogs, § 6-8; keeping of hogs regulated, § 6-12; removal of construction debris required, § 50-1.

State Law References: Nuisances and public health generally, G.S. 130A-1 et seq.; authority to prohibit or regulate conditions detrimental to health, safety or welfare of citizens, G.S. 130A-19, 153A-140, 160A-174(a), 160A-193; authority to regulate, restrict or prohibit noise, G.S. 160A-184.

Sec. 18-41. Penalty.

Violation of this article shall be a misdemeanor punishable in accordance with G.S. 14-4.
(Ord. No. 91-39, § 3, 8-26-91)

Sec. 18-42. Unnecessary noises.

Subject to the provisions of this article, the creation of any unreasonably loud, disturbing and unnecessary noise is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.
(Ord. No. 91-39, § 1, 8-26-91)

Sec. 18-43. Noises expressly prohibited.

The following acts, which are deemed to be inclusive and not exclusive, are declared to be loud, disturbing and unnecessary noises in violation of this article:

(1) The continuous sounding of any horn or signal device on any automobile, motorcycle or other vehicle except as a danger signal; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for any unnecessary and unreasonable period of time.

(2) The use of any bell, siren or whistle upon any vehicle other than police, fire or other emergency vehicle.

(3) The continuous playing of any radio, TV, phonograph sound amplifier system or musical instruments in such a manner or such volume, particularly during the hours 11:00 p.m. to 7:00 a.m. or on a Sunday, as to annoy or disturb the quiet, comfort or repose of any person in any

dwelling, hotel or other type of residence.

(4) The keeping of any animal or bird by which causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity.

(5) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding and rattling, in such a manner as to cause the squealing of tires or other noise.

(6) The discharge into the open air of the exhaust of any engine, or motor vehicle or motor boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(7) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.

(8) The construction (including excavating) demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, except in the case of urgent necessity in the interest of public safety and then only with a permit from the code enforcement administrator, which permit may be renewed for a period of three days or less while the emergency continues.

(9) The creation of any excessive noise on Sundays on any street adjacent to any church.

(10) The creation of loud and excessive noises in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(11) The sounding of any bell, whistle or siren attached to any building or premises which disturbs the quiet or repose of any person in the vicinity thereof.

(12) The shouting and crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.

(13) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, sale or display of merchandise.

(14) The use of any mechanical loudspeaker or amplifiers on trucks or other moving vehicles for advertising or other purposes.

(15) The construction, repair or other maintenance work on motor vehicles in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.

(16) The prolonged and habitual barking, howling or whining of any dog within the corporate limits of the town which covers serious annoyance to neighboring residents and interferes with the reasonable use or enjoyment of the premises occupied by such residents.

(Ord. No. 91-39, § 2, 8-26-91)

Sec. 18-44. Construction noise.

It is unlawful to construct, demolish, alter or repair any building or other structure in the town other than between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday, and 12:00 noon through 9:00 p.m. on Sunday, except by permit from the town manager when, in his opinion, such work will not create noise objectionable to persons living or working on property near the location of the construction activity. The town manager may permit emergency work in order to preserve the public health or safety at any time.
(Ord. of 1-12-87, § 1)

Secs. 18-45--18-65. Reserved.

ARTICLE III.

NUISANCES*

* **State Law References:** Nuisances and public health generally, G.S. 130A-1 et seq.; authority to prohibit or regulate conditions detrimental to health, safety or welfare of citizens, G.S. 130A-19, 153A-140, 160A-174(a), 160A-193.

DIVISION 1.

GENERALLY

Secs. 18-66--18-80. Reserved.

DIVISION 2.

NOXIOUS WEEDS, GRASS AND REFUSE*

* **Cross References:** Vegetation, ch. 66.
State Law References: Dumping of toxic substances, G.S. 14-284.2; littering, G.S. 14-399; permitting uncontrolled existence of plant pests, G.S. 106-421; nuisances and public health generally, G.S. 130A-1 et seq.; authority to prohibit or regulate conditions detrimental to health, safety or welfare of citizens, G.S. 130A-19, 153A-140, 160A-174(a), 160A-193; local health departments generally, G.S. 130A-34 et seq.; solid waste management generally, G.S. 130A-290 et seq.; authority to regulate disposal of garbage and trash, G.S. 160A-303.1.

Sec. 18-81. Jurisdiction.

The provisions of this division shall be enforced within the corporate limits and within one mile thereof as authorized by G.S. 160A-193.
(Ord. No. 95-1, § 1, 12-16-94)

Sec. 18-82. Unlawful conditions deemed public nuisance.

The existence of any of the following enumerated and described conditions are hereby found, deemed, and declared to be dangerous and prejudicial to the health, safety, morals, and general welfare of the inhabitants of the town and constitute a public nuisance:

(1) The uncontrolled growth of noxious weeds or grass to a height in excess of 12 inches for improved property or in excess of 24 inches for unimproved property causing or threatening to cause a hazard detrimental to the public health or safety;

(2) Any condition which is a breeding ground or harbor for mosquitoes or a breeding ground or harbor for rats, snakes, or other pests, or has the potential for becoming a breeding ground or harbor for such pests;

(3) Any accumulation of rubbish, trash, tires, motor vehicle parts or junk, mattresses, boxes, paper, brush, old clothes, or rags causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing an attractive nuisance, which is or may be dangerous or prejudicial to the public health;

(4) Any accumulation of animal waste, food waste, garbage, vegetable matter, or any other rotten matter that is offensive by virtue of odors or vapors or by the inhabitance therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health;

(5) Privies;

(6) The open storage of any abandoned icebox, refrigerator, stove, glass, furniture, building material, building rubbish, or similar items;

(7) Any condition which violates the rules and regulations of the county health department;

(8) Any other condition specifically declared to be a danger to the public health, safety, and general welfare of inhabitants of the town and a public nuisance by the town commissioners, which proceeding may be initiated by the town manager or his designee before the board after giving written notice thereof. Such notice shall state the condition existing, the location and that the board will be requested on a day certain, after a public hearing at which the person notified may appear and be heard, to declare that the conditions existing constitute a danger to the public health, safety, and general welfare of the inhabitants of the town and a public nuisance. After such declaration by the board in the form of an ordinance, the condition will be abated as provided for in this chapter, provided no administrative appeal shall lie from a proceeding pursuant to the subsection and initiated by the town manager or his designee before the board of commissioners.

(Ord. No. 95-1, § 1, 12-16-94)

Sec. 18-83. Investigation.

Upon notice from any person of the possible existence of any of the conditions described in section 18-

82, the code enforcement officer shall make such investigation as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared in section 18-82.
(Ord. No. 95-1, § 1, 12-16-94)

Sec. 18-84. Nuisance abatement procedures.

When any public nuisance as set out in section 18-82 is found to exist on any property within the town, the following procedures shall be followed:

(1) The code enforcement officer of the town shall notify the owner and any tenant of the premises where the nuisance is located that conditions exist which constitute a public nuisance and that the conditions must be abated within 30 days from receipt of the notice. The notice shall be sent by certified mail, return receipt requested.

(2) If the conditions that constitute a public nuisance are not abated within 30 days from receipt of the notice, the owner of the property is in violation of the ordinance and shall be subject to a civil penalty in the amount of $20.00 per violation. Each day the nuisance continues constitutes a separate violation. Such penalty is payable to the town in accordance with section 18-85.

(3) If the conditions that constitute a public nuisance are not abated within 30 days of receipt of the notice, the town, as an alternative to the assessment of a civil penalty, may cause the conditions constituting a public nuisance to be abated, and the cost of the abatement shall constitute a lien against the land.

(4) Within the 30-day period referenced in subsection (1), the owner of the property where the nuisance exists may appeal the findings of the code enforcement officer to the board of commissioners by giving written notice of appeal to the inspections department. No civil penalty will be assessed nor will any nuisance abatement activity be undertaken by the town until there has been a determination on the property owner's appeal by the board of commissioners. In the event no appeal is received, the code enforcement officer may proceed to assess a civil penalty and/or abate the nuisance.

(5) The board of commissioners, in the event an appeal is submitted as provided in subsection (3) hereof, after hearing all interested persons and reviewing the findings of the code enforcement officer, may affirm or reverse the finding made pursuant to subsection (1) and (2) hereof.

(6) If no appeal is made to the board of commissioners as herein set out, or the board adopts an ordinance directing the code enforcement officer to assess civil penalty and/or abate the declared nuisance, the officer shall assess civil penalty and/or abate the nuisance by causing the condition to be removed or otherwise remedied. The code enforcement officer may utilize employees of the town or hire a private contractor to go upon the premises and remove or otherwise abate such nuisance under the direct supervision of the code enforcement officer. The code enforcement officer shall obtain permission of the property owner to enter such property or obtain an administrative warrant from the county magistrate to enter the property for the purpose of abating the nuisance.

(Ord. No. 95-1, § 1, 12-16-94)

Sec. 18-85. Notification and collection of civil penalties.

If the nuisance is not abated within 30 days of receipt of notice thereof by the property owner according to section 18-84, subsection (1) above, the code enforcement officer shall notify the finance department to commence the levy of the civil penalty effective immediately. The code enforcement officer shall notify the finance department each seven-day period thereafter that the nuisance violation continues. It shall be the duty of the finance officer to mail a statement of civil penalty charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within 30 days from the receipt thereof.
(Ord. No. 95-1, § 1, 12-16-94)

Sec. 18-86. Recovery of town abatement costs.

The actual cost incurred by the town in removing or otherwise remedying a public nuisance pursuant to this division shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the finance officer to mail a statement of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within 30 days from the receipt thereof.
(Ord. No. 95-1, § 1, 12-16-94)

Sec. 18-87. Creation of lien.

If charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided in section 18-85 and 18-86, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. 160A-193.
(Ord. No. 95-1, § 1, 12-16-94)

Sec. 18-88. Additional remedies.

The procedure set forth in this division shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this division shall not prevent the town from proceeding in a criminal action against any person violating the provisions of this division as provided in G.S. 14-4.
(Ord. No. 95-1, § 1, 12-16-94)

Secs. 18-89--18-110. Reserved.

DIVISION 3.

JUNKED MOTOR VEHICLES*

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* **State Law References:** Littering, G.S. 14-399; abandoned and derelict motor vehicles, G.S. 20-137.6 et seq.; nuisances and public health generally, G.S. 130A-1 et seq.; authority to prohibit or regulate conditions detrimental to health, safety or welfare of citizens, G.S. 130A-19, 153A-140, 160A-174(a), 160A-193; local health departments generally, G.S. 130A-34 et seq.; solid waste management generally, G.S. 130A-290 et seq.; authority to regulate abandoned and junked motor vehicles, G.S. 160A-303, 160A-303.2.

Sec. 18-111. Definitions.

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

Abandoned vehicle, as authorized and defined in G.S. 160A-303, means one that:

(1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking.

(2) Is left on a public street or highway for longer than seven days.

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

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

Authorizing official means the police department or the code enforcement administrator, respectively, designated to authorize the removal of vehicles under the provisions of this division.

Junked motor vehicle, as authorized and defined in G.S. 160A-303.2, means a vehicle that does not display a current license plate lawfully thereon and that:

(1) Is partially dismantled or wrecked.

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move.

(3) Is more than five years old and appears to be worth less than $100.00.

Motor vehicle or *vehicle* means all machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Nuisance vehicle means a vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance and unlawful, including a vehicle found to be:

(1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests.

(2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height.

(3) A point of collection of pools or ponds of water.

(4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor.

(5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.

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

(7) One which is a point of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind.

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

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

(Ord. No. 90-24, § 2, 5-14-90)

Cross References: Definitions and rules of construction generally, § 1-2.

State Law References: Abandoned and derelict vehicles defined, G.S. 20-137.7.

Sec. 18-112. Administration.

The police department and code enforcement administrator shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on the public streets and highways within the town, and on property owned by the town. The code enforcement administrator shall be responsible for administering the removal and disposition of abandoned, nuisance or junked motor vehicles located on private property. The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this division and applicable state laws. Nothing in this division shall be construed to limit the legal authority or powers of officers of the town police department in enforcing other laws or in otherwise carrying out their duties.

(Ord. No. 90-24, § 1, 5-14-90; Ord. No. 90-38, § 1, 7-9-90)

State Law References: Authority to regulate abandoned and junked motor vehicles, G.S. 160A-303, 160A-303.2.

Sec. 18-113. Abandoned vehicle unlawful; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned.

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

(Ord. No. 90-24, § 3, 5-14-90)

State Law References: Authority to regulate abandoned and junked motor vehicles, G.S. 160A-303, 160A-303.2.

Sec. 18-114. Nuisance vehicle unlawful; removal authorized.

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

(b) Upon investigation, the code enforcement administrator and/or police department may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle, and order the vehicle removed.

(Ord. No. 90-24, § 4, 5-14-90; Ord. No. 90-38, § 1, 7-9-90)

State Law References: Removal of unauthorized vehicles from private property, G.S. 20-137.9, 20-219.2, 20-219.3; nuisances and public health generally, G.S. 130A-1 et seq.; authority to prohibit or regulate conditions detrimental to health, safety or welfare of citizens, G.S. 130A-19, 153A-140, 160A-174(a), 160A-193; health departments generally, G.S. 130A-34 et seq.; authority to regulate abandoned and junked motor vehicles, G.S. 160A-303, 160A-303.2.

Sec. 18-115. Junked motor vehicle regulated; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee or occupant of the real property upon which a junked motor vehicle is located, to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(b) It shall be unlawful to have more than one junked motor vehicle on the premises of public or private property. A single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.

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

(d) Subject to the provisions of subsection (e), upon investigation, the code enforcement administrator and/or police department may order the removal of a junked motor vehicle as defined in this division after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:

(1) Protection of property values.

(2) Promotion of economic development opportunities.

(3) Indirect protection of public health and safety.

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

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

(e) Permitted concealment or enclosure of junked motor vehicle:

(1) One junked motor vehicle, in its entirety, can be located in the rear yard as defined by the town's zoning ordinance if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering.

(2) More than one junked motor vehicle. Any other junked motor vehicles must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicles cannot be seen from a public street or abutting property. A garage or building structure means either a lawful, nonconforming use or a garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and

building code regulations. The code enforcement administrator and/or police department have the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate. The covering or enclosure must be compatible with the objectives of this division.

(Ord. No. 90-24, § 5, 5-14-90; Ord. No. 90-38, § 1, 7-9-90)

State Law References: Removal of unauthorized vehicles from private property, G.S. 20-137.9, 20-219.2, 20-219.3; authority to regulate abandoned and junked motor vehicles, G.S. 160A-303, 160A-303.2.

Sec. 18-116. Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements.

(a) Except as set forth in section 18-117, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice shall retain a written record to show the names and addresses to which mailed and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the town on a specified date (no sooner than seven days after the notice is affixed). The notice shall state that the vehicle will be removed by the town on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(b) With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, is a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the board of commissioners in writing, heard at the next regularly scheduled meeting of the board, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(Ord. No. 90-24, § 6, 5-14-90)

State Law References: Removal of unauthorized vehicles from private property, G.S. 20-137.9, 20-219.2, 20-219.3; abandoned and derelict vehicles to be tagged, G.S. 20-137.10; authority to regulate abandoned and junked motor vehicles, G.S. 160A-303, 160A-303.2.

Sec. 18-117. Exceptions to prior notice requirement.

The requirement that notice is given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

(1) Vehicles abandoned on the streets. For vehicles left on the public streets and highways, the board of commissioners hereby determines that immediate removal of such vehicles may be warranted when they are:

a. Obstructing traffic.

b. Parked in violation of an ordinance prohibiting or restricting parking.

c. Parked in a no stopping or standing zone.

d. Parked in loading zones.

e. Parked in bus zones.

f. Parked in violation of temporary parking restrictions imposed under Code sections.

(2) Other abandoned or nuisance vehicles. With respect to abandoned or nuisance vehicles left on town-owned property other than the streets and highways and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

(Ord. No. 90-24, § 7, 5-14-90)

State Law References: Removal of unauthorized vehicles from private property, G.S. 20-137.9, 20-219.2, 20-219.3, 20-219.11; abandoned and derelict vehicles to be tagged, G.S. 20-137.10; control of streets, G.S. 160A-296; authority to regulate abandoned and junked motor vehicles, G.S. 160A-303, 160A-303.2.

Sec. 18-118. Removal of vehicles; post-towing notice requirements.

(a) Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. Whenever such a vehicle is removed, the authorizing town official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

(1) The description of the removed vehicle.

(2) The location where the vehicle is stored.

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

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

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

(b) The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (a)(1) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.

(c) If the vehicle is registered in this state, notice shall be given within 24 hours. If the vehicle is not registered in this state, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.

(d) Whenever an abandoned, nuisance or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing town official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (a)(1) through (5) above.
(Ord. No. 90-24, § 8, 5-14-90)

State Law References: Removal of unauthorized vehicles from private property, G.S. 20-137.9, 20-219.2, 20-219.3; abandoned and derelict vehicles to be tagged, G.S. 20-137.10; post-towing procedures generally, G.S. 20-219.9 et seq.; authority to regulate abandoned and junked motor vehicles, G.S. 160A-303, 160A-303.2.

Sec. 18-119. Right to probable cause hearing before sale or final disposition of vehicle.

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. 20-219.11.
(Ord. No. 90-24, § 9, 5-14-90)

State Law References: Jurisdiction and powers of district courts and magistrates, Const. N.C., art. IV, § 12; magistrates generally, G.S. 7A-170 et seq.; powers of magistrates, G.S. 7A-273, 7A-292; post-towing procedures generally, G.S. 20-219.9 et seq.

Sec. 18-120. Redemption of vehicle during proceedings.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this division.
(Ord. No. 90-24, § 10, 5-14-90)

State Law References: Storage charges, G.S. 20-219.2, 20-219.3; option to pay or post bond, G.S. 20-219.12, 160A-303, 160A-303.2; payment to tower guaranteed, G.S. 20-219.14.

Sec. 18-121. Sale and disposition of unclaimed vehicle.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with G.S. 44A-1 et seq.
(Ord. No. 90-24, § 11, 5-14-90)

State Law References: Sale and disposition of unclaimed vehicles, G.S. 20-137.10, 20-219.3, 44A-4 et seq., 160A-303, 160A-303.2.

Sec. 18-122. Conditions on removal of vehicles from private property.

As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the code enforcement administrator and/or police department. The town may require any person requesting the removal of an abandoned nuisance or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage or sale thereof.
(Ord. No. 90-24, § 12, 5-14-90; Ord. No. 90-38, § 1, 7-9-90)

State Law References: Request for removal of unauthorized vehicles from private property, G.S. 20-137.9, 20-219.2, 160A-303, 160A-303.2.

Sec. 18-123. Protection against criminal or civil liability.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this division.
(Ord. No. 90-24, § 13, 5-14-90)

State Law References: No liability for removal, G.S. 20-137.13, 20-219.2, 20-219.3, 160A-303, 160A-303.2.

Sec. 18-124. Exceptions.

Nothing in this division shall apply to any vehicle:

(1) Which is located in a bona fide automobile graveyard or junkyard as defined in G.S. 136-143, in accordance with the Junkyard Control Act, G.S. 136-141 et seq.

(2) Which is in an enclosed building.

(3) Which is on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise.

(4) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the town.

(Ord. No. 90-24, § 14, 5-14-90)

Sec. 18-125. Unlawful removal of impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this Code unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.
(Ord. No. 90-24, § 15, 5-14-90)

State Law References: Storage charges, G.S. 20-219.2, 20-219.3; option to pay or post bond, G.S. 20-219.12, 160A-303, 160A-303.2; payment to tower guaranteed, G.S. 20-219.14.

Secs. 18-126--18-145. Reserved.

DIVISION 4.

ABANDONED STRUCTURES*

* **Cross References:** Buildings and building regulations, ch. 10.

Sec. 18-146. Findings; intent.

It is hereby found that there exist within the town abandoned structures which the board of commissioners finds to be hazardous to the health, safety and welfare of the residents of the town due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. Therefore, pursuant to the authority granted by G.S. 160A-441, it is the intent of this division to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation.
(Ord. of 4-4-78, § 1)

Sec. 18-147. Duties of code enforcement administrator.

The code enforcement administrator is hereby designated as the town officer to enforce the provisions of this division. It shall be the duty of the code enforcement administrator to:

(1) Locate abandoned structures within the town and determine which structures are in violation of this division.

(2) Take such action pursuant to this division as may be necessary to provide for the repair, closing or demolition of such structures.

(3) Keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this division.

(4) Perform such other duties as may be prescribed in this division or assigned to him by the board of commissioners.

(Ord. of 4-4-78, § 2)

Sec. 18-148. Powers of the code enforcement administrator.

The code enforcement administrator is authorized to exercise such powers as may be necessary to carry out the intent and the provisions of this division, including the following powers in addition to others granted:

(1) Investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this division.

(2) Enter upon premises for the purposes of making inspections.

(3) Administer oaths and affirmations, examine witnesses, and receive evidence.

(4) Designate such other officers, agents and employees of the town as he deems necessary to carry out the provisions of this division.

(Ord. of 4-4-78, § 3)

Sec. 18-149. Standards for enforcement.

(a) Every abandoned structure within the town shall be deemed in violation of this division whenever such structure constitutes a hazard to the health, safety or welfare of the town citizens as a result of:

(1) The attraction of insects or rodents.

(2) Conditions creating a fire hazard.

(3) Dangerous conditions constituting a threat to children.

(4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

(b) In making the preliminary determination of whether or not an abandoned structure is in violation of this division, the code enforcement administrator may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

(1) Holes or cracks in the structure's floors, walls, ceilings or roof which might attract or admit rodents and insects, or become breeding places for rodents and insects.

(2) The collection of garbage or rubbish in or near the structure which might attract rodents or insects, or become breeding places for rodents and insects.

(3) Violations of the state building code, the state electrical code or the fire prevention code which constitute a fire hazard in such structure.

(4) The collection of garbage, rubbish or combustible material which constitute a fire hazard in such structure.

(5) The use of such structure or nearby grounds or facilities by children as a play area.

(6) Violations of the state building code which might result in danger to children using the structure or nearby grounds or facilities as a play area.

(7) Repeated use of such structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.

(Ord. of 4-4-78, § 4)

Sec. 18-150. Procedure for enforcement.

(a) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the code enforcement administrator by at least five residents of the town charging that any structure exists in violation of this division or whenever it appears to the code enforcement administrator, upon inspection, that any structure exists in violation hereof, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such structure a complaint stating the charges and containing a notice that a hearing will be held before the code enforcement administrator at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such structure. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the code enforcement administrator.

(b) *Procedure after hearing.* After such notice and hearing, the code enforcement administrator shall state in writing his determination whether such structure violates this division. If the code enforcement administrator determines that the structure is in violation he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to eitherrepair, alter and improve such structure or else remove or demolish the same within a specified period of time not to exceed 90 days.

(c) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any structure shall fail to comply with an order of the code enforcement administrator within the time specified therein, the code enforcement administrator may submit to the board of commissioners at its next regular meeting a resolution directing the town attorney to petition the superior court for an order directing such owner to comply with the order of the code enforcement administrator, as authorized by G.S. 160A-446(g).

(2) *In rem remedy.* After failure of an owner of a structure to comply with an order of the code enforcement administrator within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection (c)(1) of this section, the code enforcement administrator shall submit to the board of commissioners an ordinance ordering the code enforcement administrator to cause such structure to be removed or demolished, as provided in the original order of the code enforcement administrator, and pending such removal or demolition, to placard such structure as provided by G.S. 160A-443.

(d) *Petition to superior court by owner.* Any person aggrieved by an order issued by the code enforcement administrator shall have the right, within 30 days after issuance of the order, to petition the superior court for a temporary injunction restraining the code enforcement administrator pending a final disposition of the cause, as provided by G.S. 160A-446(f).
(Ord. of 4-4-78, § 5)

Sec. 18-151. Methods of service of complaints and orders.

Complaints or orders issued by the code enforcement administrator pursuant to this division shall be

served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the code enforcement administrator in the exercise of reasonable diligence, the code enforcement administrator shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publication in the manner prescribed in the North Carolina Rules of Civil Procedure. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.
(Ord. of 4-4-78, § 6)

Sec. 18-152. In rem action by code enforcement administrator; placarding.

(a) After failure of an owner of a structure to comply with an order of the code enforcement administrator issued pursuant to the provisions of this division, and upon adoption by the board of commissioners of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5) and section 14-150(c) of this division, the code enforcement administrator shall proceed to cause such structure to be removed or demolished, as directed by the ordinance of the board and shall cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(b) Each such ordinance shall be recorded in the office of the register of deeds in the county, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443(5).
(Ord. of 4-4-78, § 7)

Sec. 18-153. Costs a lien on premises.

As provided by G.S. 160A-446(6), the amount of the cost of any removal or demolition caused to be made or done by the code enforcement administrator pursuant to this division shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by the general statutes.
(Ord. of 4-4-78, § 8)

Sec. 18-154. Alternative remedies.

Neither this division nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this division by criminal process, and the enforcement of any remedy provided in this division shall not prevent the enforcement of any other remedy or remedies provided in this division or in other ordinances or laws.
(Ord. of 4-4-78, § 9)

Secs. 18-155--18-200. Reserved.

ARTICLE III.

STORM DRAINAGE*

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* **Cross References:** Buildings and building regulations, ch. 10; floods, ch. 26, streets, sidewalks, and other public places, ch. 54; use of sanitary sewer system, § 62-161 et seq; water quality protection, § 62-186 et seq.

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Sec. 18-201. Purpose.

[The purpose of this article is] to protect the public health, safety, and welfare by controlling the discharge of pollutants into the stormwater conveyance system and to protect surface and ground water quality. (Ord. No. 00-01, § A, 1-10-00)

Sec. 18-202. Definitions.

[For the purposes of this article, the following words, terms and phrases shall have the meanings set out in this section.]

Illicit connection. Any unlawful connection that allows the discharge of non-stormwater to the stormwater conveyance system or waters of the state as defined in this article.

Illicit discharge. Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission, or other discharge of any substance other than stormwater into a stormwater conveyance, the waters of the state, or upon the land in such proximity to the same, such that the substance is likely to reach a stormwater conveyance or the waters of the state.

Pollution. Man-made or man-induced alteration of the chemical, physical, biological, thermal, and/or radiological integrity of water.

Stormwater. Any flow resulting from, and occurring during or following, any form of natural precipitation.

Stormwater conveyance or stormwater conveyance system. Any feature, natural or man-made, that collects and transports stormwater, including but not limited to roads with drainage systems, catch basins, curbs, gutters, ditches, channels, pipes, culverts, storm drains, and any other feature or structure designed or used for collecting or conveying stormwater.

Waters of the state. Surface waters within or flowing through the boundaries of the state including any intermittent or perennial stream, river, creek, brook, swamp, lake, or wetland.
(Ord. No. 00-01, § B, 1-10-00)

Sec. 18-203. Non-stormwater discharge controls.

(a) *Illicit discharges.* No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the state, or upon the land in such proximity to the same such that the substance is likely to reach a stormwater conveyance or the waters of the state any substance other than stormwater, provided that discharges associated with the following activities are allowed provided that they do not significantly impact water quality:

(1) Filter backwash and draining associated with raw water intake screening and filtering devices.

(2) Condensate from residential or commercial air conditioning.

(3) Residential vehicle washing.

(4) Flushing and hydrostatic testing water associated with utility distribution systems.

(5) Discharges associated with emergency removal and treatment activities, for hazardous materials, authorized by the federal, state, or local government on-scene coordinator.

(6) Uncontaminated ground water.

(7) Collected infiltrated stormwater from foundation or footing drains.

(8) Collected ground water and infiltrated stormwater from basement or crawl space pumps.

(9) Irrigation water.

(10) Street wash water.

(11) Flows from fire fighting.

(12) Discharges from the pumping or draining of natural water courses or water bodies.

(13) Flushing and cleaning of stormwater conveyances with unmodified potable water.

(14) Wash water from the cleaning of the exterior of buildings and adjacent paved areas, provided that the discharge does not pose an environmental or health threat.

(15) Other non-stormwater discharges authorized by the state and approved by the town.

Prohibited substances shall include, but not be limited to oil, anti-freeze, chemicals, animal waste, yard waste, paints, garbage, and litter.

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

(c) *Spills.* Spills or leaks of polluting substances discharged to, or having the potential to be indirectly transported to the stormwater conveyance system, shall be contained, controlled, collected, and removed promptly. All affected areas shall be restored to their pre-existing condition.

Persons associated with the spill or leak shall immediately notify the town fire chief or his designee of all spills or leaks of polluting substances. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person of other liability which may be imposed by state or other law.

(Ord. No. 00-01, § C, 1-10-00)

Sec. 18-204. Enforcement.

(a) *Authority to enter.* Any authorized town personnel shall be permitted to enter upon public or private property for the purposes of observation, inspection, sampling, monitoring, testing, surveying, and measuring compliance. No person shall obstruct, hamper, or interfere with any such representative while carrying out his official duties.

(b) *Civil and criminal penalties.*

(1) *Illicit discharges.* Any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, directs, or assists directly or indirectly in the creation of a violation of this article shall be subject to civil penalties as follows:

a. For first time offenders, if the quantity of the discharge is equal to or less than five gallons and consists of domestic or household products in quantities considered ordinary for household purposes, or for any quantity of yard waste or litter, said person shall be assessed a civil penalty of $100.00 per violation or per day for any continuing violation and if the quantity of discharge is greater than five gallons or contains non-domestic substances, including but not limited to process wastewater, or if the person cannot provide clear and convincing evidence of the volume and nature of the substance discharged, said person shall be assessed a civil penalty of $1,000.00 per violation or per day for any continuing violation.

b. For repeat offenders, the amount of the penalty shall be double the amount assessed for the previous penalty, not to exceed $10,000.00 per violation for any continuing violation.

(2) *Illicit connections.* Any person found with an illicit connection in violation of this article and any designer, engineer, contractor, agent, or any other person who allows, acts in concert, participates, directs, or assists directly or indirectly in the establishment of an illicit connection in violation of this article shall be subject to civil penalties as follows:

a. First time offenders shall be subject to a civil penalty of $500.00 per day of continuing violation.

b. Repeat offenders shall be subject to a civil penalty of $1,000.00 per day of continuing violation.

(3) *Procedures for assessing civil penalties.* Said penalties shall be assessed by the town manager or his designee. No penalty shall be assessed until the person alleged to be in violation is served written notice of the violation by registered, certified mail-return receipt requested, or personal service. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty. The notice shall describe the violation with particularity and specify the measures needed to come into compliance. The notice shall designate the time within which such measures must be completed. The notice shall warn that failure to correct the violation within the specified

time period will result in the assessment of additional civil penalties.

(4) *Payment/collection procedures.* Penalties shall be assessed by the town manager or his designee after proper notice has been served as described in subsection (b)(3) above. The town manager or designee shall make written demand for payment upon the person in violation. If payment is not received within 30 days after demand for payment is made, the matter shall be referred to the town attorney for possible institution of a civil action in the name of the town for recovering the penalty.

(5) *Criminal penalties.* Any person who knowingly or willfully violates any provision of this article or any order duly adopted or issued pursuant to this article shall be guilty of a misdemeanor, punishable by a fine not to $500.00 or imprisonment for not longer than 30 days. Each violation shall be a separate offense.

(Ord. No. 00-01, § D, 1-10-00)

Chapters 19--21

RESERVED

Chapter 22

FIRE PREVENTION AND PROTECTION*

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* **Cross References:** Buildings and building regulations, ch. 10; civil emergencies, ch. 14; firefighters authorized to direct traffic at fires, § 58-4.

State Law References: Fire protection in municipalities, G.S. 160A-291 et seq.

Article I. In General

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ARTICLE I.

IN GENERAL

Secs. 22-1--22-35. Reserved.

ARTICLE II.

FIRE PREVENTION CODE

Sec. 22-36. Jurisdiction.

This article is effective in all areas of the municipality and the municipal extraterritorial jurisdiction.
(Ord. No. 92-54, § 2, 9-1-92; Ord. No. 94-62, 3-27-95)

Sec. 22-37. Purpose.

It is the purpose of this article to prescribe regulations consistent with the most current edition of the state Building Code, Volume V, Fire Prevention (North Carolina Fire Prevention Code) and nationally recognized good practices for the safeguarding of life and property from hazards of fire and explosions arising from the storage, handling, and use of flammable, combustible and hazardous substances, materials and devices and from conditions hazardous to life and property in the use or occupancy of buildings or premises.
(Ord. No. 92-54, § 3, 9-1-92; Ord. No. 94-62, 3-27-95)

Sec. 22-38. Relationship to other laws and standards.

The provisions of the state Fire Prevention Code, as amended periodically, are incorporated by reference in this article. If any provision of this article is in material conflict with a provision of the state Fire Prevention Code, then the state code provision shall take precedence over the conflicting provision of this article.
(Ord. No. 92-54, § 4, 9-1-92; Ord. No. 94-62, 3-27-95)

State Law References: Adoption of technical codes by reference, G.S. 160A-76.

Sec. 22-39. Application.

(a) The provisions of this article shall apply to new and existing conditions, and to the repair, use, occupancy and maintenance of existing buildings or structures specified in the state Fire Prevention Code, and to other conditions hazardous to life or property in the opinion of the fire chief or his designee.

(b) Nothing contained in this article shall be construed as applying to the transportation of any substance shipped in compliance with regulations prescribed by state and federal law nor as applying to the military forces of the United States.
(Ord. No. 92-54, § 5, 9-1-92; Ord. No. 94-62, 3-27-95)

Sec. 22-40. Duties of fire chief.

The duties of the fire chief shall include but are not limited to:

(1) Keeping the town manager and the board of commissioners informed of the progress and development of the fire department.

(2) Keeping the town manager and the board of commissioners informed of any matters pertaining to the present condition and future expansion of the fire department.

(3) Serving as the town manager's and board of commissioners's advisor concerning requirements of the state fire insurance rating bureau.

(4) Conducting fire prevention inspections and electrical inspections of public schools required by G.S. 115C-1 et seq., and fire prevention inspections of licensed day care facilities, licensed foster care homes and licensed rest home facilities as required by state law.

(5) Conducting periodic fire inspections of buildings, structures and premises within the town's corporate limits and within the town's extraterritorial jurisdiction, as set forth in section 22-42.

(6) Conducting investigations (jointly with other fire and law enforcement officials) of fires of a suspicious nature so as to determine their point of origin and cause.

(7) Assisting school authorities in developing and managing fire prevention programs for each public school.

(8) Maintaining an adequate staff of fire inspectors certified by the state code officials qualification board to properly execute all provisions of this article.

(Ord. No. 92-54, § 6, 9-1-92; Ord. No. 94-62, 3-27-95)

Cross References: Officers and employees, § 2-61 et seq.

State Law References: Duties of fire chief, G.S. 160A-292.

Sec. 22-41. Authority to enter premises.

(a) The fire chief or his designee may, at all reasonable hours, enter any building or premises for the purpose of conducting any inspection or investigation which, under provisions of this article, he deems necessary to be made.

(b) The fire chief or his designee shall be permitted by the owner, lessee, manager or operator of any building or premises to enter and inspect the building or premises at the time and for the purpose stated in this section.

(Ord. No. 92-54, § 7, 9-1-92; Ord. No. 94-62, 3-27-95)

Sec. 22-42. Inspection of buildings and premises.

It shall be the duty of the fire chief to inspect, or cause to be inspected, according to the attached schedule, all buildings and premises except the interiors of one- and two-family dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or to endanger life from fire, and enforcing the state Fire Prevention Code, or any violations of the provisions or intent of this article creating a fire hazard. The fire chief or his designee shall charge inspection fees for inspections of buildings according to the schedule set forth in section 22-61, except when such buildings are owned by state or local government, and

for all reinspections made to ascertain compliance with a notice of violation and order of correction issued under section 22-47.
(Ord. No. 92-54, § 8, 9-1-92; Ord. No. 94-62, 3-27-95)

State Law References: Inspection of premises, G.S. 58-79-1 et seq.

Sec. 22-43. Permits.

Chapter 4 of the Fire Prevention Code, Permits and Certificates, is hereby adopted by reference. Every business or user of a building or structure required to obtain a permit under the state Fire Prevention Code must obtain such permit no later than 30 days after notification by the fire chief or his designee. The fire chief or his designee shall issue all applicable Fire Prevention Code permits to businesses which require such permits under the state Fire Prevention Code. Permits will be valid for 12 months from the date of issuance. The fire chief or his designee shall charge a fee for such permits in accordance with the fee schedule set forth in section 22-61.
(Ord. No. 92-54, § 9, 9-1-92; Ord. No. 94-62, 3-27-95)

Sec. 22-44. Site plan approval.

The fire chief or his designee shall review construction or development site plans to ensure compliance with chapter 6 of the state Fire Prevention Code before final site plan approval is granted.
(Ord. No. 92-54, § 10, 9-1-92; Ord. No. 94-62, 3-27-95)

Sec. 22-45. New construction approval.

(a) The fire chief or his designee shall review and approve all commercial and multifamily residential building plans to ensure compliance with the state Fire Prevention Code before final approval is granted.

(b) The fire chief or his designee shall conduct inspections of buildings under construction to ensure compliance with the provisions of the state Fire Prevention Code before the building inspector issues a certificate of occupancy for the building.
(Ord. No. 92-54, § 11, 9-1-92; Ord. No. 94-62, 3-27-95)

Sec. 22-46. Immediately dangerous or hazardous conditions.

Whenever the fire chief or his designee finds in any building or upon any premises dangerous conditions or materials as described below, he shall order such dangerous conditions or materials removed or remedied in such manner as the fire chief may specify:

(1) Dangerous storage or unlawful amounts of combustible, flammable or explosive or otherwise hazardous materials.

(2) Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible, flammable or explosive or otherwise hazardous materials.

(3) Dangerous accumulations of rubbish, waste paper, boxes, shavings or other highly combustible materials.

(4) Accumulations of dust or waste material in air conditioning or ventilation systems, or of grease in kitchen or other exhaust ducts, or inadequate clearances to unprotected combustible materials from hoods, grease extractors and ducts.

(5) Obstructions to or in fire escapes, designated access openings in exterior walls for fire department use, stairs, passageways, doors or windows liable to interfere with the operations of the fire department or impede egress of occupants in the case of fire.

(6) Overcrowding in violation of occupancy limits established pursuant to the state Building Code and required under the state Fire Prevention Code.

(Ord. No. 92-54, § 12, 9-1-92; Ord. No. 94-62, 3-27-95)

Sec. 22-47. Notice of violation; order to correct.

When the fire chief or his designee determines that a violation of this article exists or that any commercial building or structure required to have a permit under the state Fire Prevention Code does not have a valid permit in effect, he shall issue a notice of violation and order to correct the violation. Such notice and order shall:

(1) State the nature of the violation and the penalty to be imposed.

(2) Direct the violator to pay any unpaid fees and/or civil penalties by mailing the order and a check or money order to the town, or by personally paying the amount at the town hall.

(3) Notify the offender that a failure to pay unpaid fees or penalties within the prescribed time may subject the offender to civil action in the nature of debt for the collection of any unpaid fee or additional penalties and may be collected by penalty plus any additional penalties, together with the cost of the action to be taxed by the court.

(4) Provide and state that any unpaid penalty must either be paid as set forth above, or the failure to pay must be cleared with the fire chief within a specified period of time from the issuance of the violation notice and correction order. The notice and order shall further state that if the violation is not corrected and the order is not cleared within the specified time period, the filing of a civil complaint for the collection of any unpaid penalty may be initiated, together with other legal proceedings, including the filing of criminal charges. As used in this section, an order will be deemed cleared when either full payment has been made, or when arrangements for payment have been made, or when the offender has made a prima facie showing to the fire chief that the notice and order was issued as a result of mistake, inadvertence or inexcusable neglect and when all identified violations of Fire Prevention Codes have been corrected.

Service of notice of violation and order to correct shall be made upon the owner, operator or occupant, or other person having control over the premises where the violation exists. Service shall be made by delivering a copy of the notice and order by hand delivery or by registered or certified mail, return receipt requested, sent to the owner, operator, occupant or tenant at his last known address listed in the county tax assessor's records, or by leaving a copy of the notice and order with an agent or employee of such person. If the owner, operator, occupant or tenant

cannot be located on the premises, the fire chief or his designee may effectuate service by affixing a copy of the violation notice and order prominently on the main entrance of the building where the violation exists. Where correcting the violation will require improvement to real property or may result in administrative penalties against the property owner, the property owner must be notified by mailing a copy of the notice and order to the owner's address as listed in the county tax assessor's office.

(Ord. No. 92-54, § 13, 9-1-92; Ord. No. 94-62, 3-27-95)

Sec. 22-48. Enforcement.

(a) Failure to comply with the provisions of this article shall constitute a misdemeanor under G.S. 160A-175 and G.S. 14-4. Additionally, the fire chief or his designee may enforce the provisions of this article in civil court and seek any and all appropriate remedies authorized by G.S. 160A-175, subject to the restrictions of this section. Each day's continuing violation shall constitute a separate and distinct offense.

(b) Compliance with fire chief's notice of violation and order to correct.

(1) Immediate action orders. The fire chief or his designee may issue immediate correction orders for violations of the state Fire Prevention Code that constitute an imminent hazard to life and property. Any condition listed in section 22-46 shall be deemed an imminent hazard. Failure to correct such violation within 24 hours shall result in imposition of a civil penalty in the amount of $100.00 per day, per violation, until the violation has been completely corrected and the fire chief's correction order to correct shall so state. The order shall also state that if the violation is not corrected within 24 hours, a civil complaint for collection of penalties and any unpaid fees owed under this article may be initiated and that other legal proceedings including criminal prosecution related to the violation may be initiated. Repeated violations shall subject the violator to higher civil penalties set forth in section 22-61.

(2) Other correction orders. All other correction orders issued under this article for violations that do not constitute imminent hazards shall be corrected within 30 days. Failure to correct such violations within 30 days shall result in imposition of civil penalty in the amount of $25.00 per day per violation as well as a reinspection fee, until all identified violations have been completely corrected, and the correction order shall so state. The correction order shall also state that if the violation is not corrected within 30 days, a civil complaint for the collection of penalties and any unpaid fees owed under this article may be initiated, and that other legal proceedings including criminal prosecution may be initiated.

(Ord. No. 92-54, § 14, 9-1-92; Ord. No. 94-62, 3-27-95)

Sec. 22-49. Appeals.

(a) Any person who has been served with a notice of violation and order for correction of violations of the state Fire Prevention Code may appeal the notice and order to the state department of insurance, state building code council within ten days from date of issuance.

(b) Any person who has been served with a notice of violation and order for correction of violations of the provisions of this article which are not violations of the state Fire Prevention Code or which relate to fees

or penalties charged under this article may appeal to the town manager, whose decisions shall be final. Appeals must be filed within ten days from the date of issuance of the order.
(Ord. No. 92-54, § 15, 9-1-92; Ord. No. 94-62, 3-27-95)

Sec. 22-50. Installation of aboveground tanks.

(a) For purposes of this section, the term "motor fuel" shall mean a refined or blended petroleum product used for the propulsion of self-propelled motor vehicles, including all products commonly or commercially known or sold as gasoline.

(b) It shall be unlawful for any person, firm or corporation to erect or maintain an aboveground storage tank capable of holding 1,000 gallons or more of motor fuel. It shall also be unlawful for any person, firm or corporation to allow such aboveground storage tank to be erected or maintained on property owned by that person, firm or corporation.

(c) Aboveground storage tanks less than 1,000 gallons shall be thermally protected against a flammable liquid fuel fire for a minimum of two hours.

(d) To the extent that this section conflicts with any provision of the state Fire Prevention Code adopted by the town, this section shall control.
(Ord. No. 91-23, § 1, 6-10-91; Ord. No. 92-54, § 16, 9-1-92; Ord. No. 94-62, 3-27-95)

Sec. 22-51. Installations of knox box rapid entry system.

(a) All new or newly renovated commercial buildings and all commercial buildings equipped with an automatic fire sprinkler systems and building fire alarm systems shall provide a "knox box" key entry system. All existing commercial buildings shall provide a "knox box" within 24 months of the adoption of this section. This knox box shall be mounted on the exterior entrance of the dedicated riser room. The knox box shall be mounted on the wall at five feet above finished floor on the door handle side of dedicated sprinkler riser room door. This knox box shall be ordered through the fire department and shall be in place before a certificate of occupancy is issued. Forms are available from the fire department. Average delivery time is five to six weeks. Keys to access the facility or tenant spaces within the facility shall be provided to the fire department by the owner/manager or tenant.

(b) A dedicated sprinkler riser room is required providing an entry door to the room from the exterior of the building. The exterior door leading to the dedicated sprinkler riser room shall be labeled with minimum three-inch lettering designating "SPRINKLER RISER ROOM" in a contrasting color. Durable vinyl lettering is suggested.
(Ord. No. 94-62, 3-27-95)

Sec. 22-52. Alarm communication system.

(a) All buildings equipped with automatic sprinkler systems are to have alarm communication equipment that complies with NFiPA 72. Equipment must be fully functional and reporting to a U.L. approved central receiving station (NFiPA 71) before a certificate of occupancy is issued for the facility.

(b) When a building is protected by an automatic sprinkler system and has a fire alarm system, the fire alarm control panel or a remote annunciator of the fire alarm control panel shall be placed in the sprinkler riser room. This control panel shall have the capacity of silencing and resetting the alarm system. Adjacent to the fire alarm control panel shall be a framed zone map. Sprinkler zone nomenclature shall correspond with the zone map.
(Ord. No. 94-62, 3-27-95)

Sec. 22-53. Installation of hazardous material data storage box.

All commercial enterprises, businesses or industries in the town which use, store or manufacture on-site hazardous materials that must be reported under state Right-to-Know Laws, G.S. 95-173, et seq., or under Title III of the federal Super Fund Amendments and Reauthorization Act and the regulations promulgated thereunder and the state Building Code, Volume V, must have an approved on-site hazardous materials data storage box at each facility where hazardous materials may be found.
(Ord. No. 94-62, 3-27-95)

Sec. 22-54. Contents, types and locations of data storage box.

(a) This data storage box must contain keys providing access to secured portions of the facility. The box shall contain current information to assist fire departments and hazardous materials teams responding to emergencies at the facility, including but not limited to facility maps or plans showing the type and location of hazardous materials, Tier II forms, lists of chemicals with CAS numbers, telephone numbers for facility employees and other persons to be contacted in case of such emergencies.

(b) All information requested on the data storage sheets must be on forms provided by the town or on a substantially similar format approved by the fire chief and must be placed in the data storage box. Such information must be updated continuously to insure its accuracy.

(c) The data storage box shall be of the type designated and approved by the county local emergency planning committee and shall be located at or near the primary entrance to the facility and installed in accordance with directives of the chief of the fire department serving the facility.
(Ord. No. 94-62, 3-27-95)

Sec. 22-55. Street addresses.

In accordance with section 603.17 of the state Fire Code, all new and existing buildings shall display a number or address in such a manner as to be plainly visible and legible from the street or roadway. The purpose and intent of this section is to provide a uniform system of street addresses for all properties and buildings throughout the town in order to facilitate provision of adequate public safety and emergency response service and to minimize difficulty in locating properties and buildings.
(Ord. No. 94-62, 3-27-95)

Sec. 22-56. Definitions.

(a) The following words and phrases when used in this section shall have the following interpretation assigned to them.

(1) *Address administrator*. The town employee designated to assign street address numbers to properties in the Morrisville area.

(2) *Building*. A totally enclosed structure having a roof supported by columns or walls. For the purpose of this article, each separate and distinct unit within a single structure shall also be considered a separate building.

(3) *Official address number*. The street address assigned by the address administrator which uniquely identifies a particular building or lot. This term is synonymous with "street address number".

(4) *Driveway/private street*. An access way owned and maintained by private interests leading to a building, use or structure.

(5) *Public street*. A dedicated and accepted public right-of-way for vehicular traffic.
(Ord. No. 94-62, 3-27-95)

Sec. 22-57. Administration and application.

(a) The town will be responsible for the interpretation and administration of this section including:

(1) Assigning all numbers for properties and buildings;

(2) Maintaining address records of each property and building;

(3) Changing existing addresses when necessary to achieve sequential house numbering along a road or regularizing an existing numbering scheme;

(4) Designating individual unit addresses within multifamily housing.

(b) This requirement shall apply within the corporate limits of the town and with the town's accepted extra-territorial jurisdiction.
(Ord. No. 94-62, 3-27-95)

Sec. 22-58. Display of street address numbers.

(a) Street address numbers shall be clearly displayed so that the location can be identified easily from the street.

(1) The official address number of single-family residential units shall be displayed on the side of the dwelling which is most clearly visible from the street during both day and night.

(2) If the official address number is not visible from the public street or private street that serves as the primary access road to the building on which the address number is located, or if the subject residential building is located more than 50 feet from such access road, the address numbers shall

also be displayed at the end of the driveway or easement nearest the road which provides access to the building. Each number or letter shall be at least six inches in height and three-fourths inch in width, and in a contrasting color to the mounting surface.

(3) Numerals identifying the address number of a single-family dwelling displayed on a road side mailbox shall be at least three inches in height and of contrasting color.

(4) Each numeral for buildings containing multiple dwelling units shall be at least eight inches in height and shall be placed on the side of the building facing the road or on the end of the building nearest the road in such a manner as to be readily visible.

a. Individual units of multifamily dwellings shall be identified with a system approved by the town. The numbers or letters shall be a minimum of three inches in height.

b. All lettering and numerals used for addresses on multifamily units shall be of a contrasting color to the mounting surface.

(5) Building addresses for nonresidential buildings may be displayed in one of two options:

a. Option I: Addresses placed directly on the building. Under this option, the letters or numerals will be placed in the front upper quarter portion of the building or on the side of the building which is most clearly visible from the street or streets accessing the building. In instances where the building is served by two streets, address letters or numerals may be required on sides facing both streets.

b. Option II: Building addresses placed on a sign with individual addresses placed on the door of each leased/owned space. Under this option a sign permit must be obtained from the town.

c. Numerals or letters for nonresidential buildings shall be installed in accordance with Table 22-58.1 or as designated by the fire official.

d. Numerals or letters shall be displayed in a color that contrasts with the color of the background to which it is affixed.

e. The fire official will have the right to authorize and approve alternate methods of displaying street address numbers that are in keeping with the content of this article when strict adherence to these standards cannot reasonably be met.

TABLE 22-58.1

Distance from building to street or to the front of the first row of parking area, whichever is less	Minimum size of letter/numeral
0--25'	3 inches in height and 1/2 inch in width
26--50'	6 inches in height and 3/4 inch in width
51--75'	12 inches in height and 1 inch in width
76' and greater	18 inches in height and 1 1/2 inches in width

Note: On multi-story buildings the size of the letter/numeral will be increased in proportion to the building height and distance from the street.
(Ord. No. 94-62, 3-27-95)

Sec. 22-59. Enforcement.

(a) No building permit shall be issued until an official street address number has been assigned for the building lot or unit.

(b) No certificate of occupancy shall be issued until the official street address number or numbers are properly displayed.

(c) Owners or occupants of buildings that do not comply with the provisions of this section will be notified in accordance with section 22-47 of this article.
(Ord. No. 94-62, 3-27-95)

Sec. 22-60. Severability.

If all or part of this article or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given separate effect and to this end the provisions of this article are declared to be severable.
(Ord. No. 94-62, 3-27-95)

Sec. 22-61. Fee schedule, penalties and inspection schedule.

The following schedules for fees, penalties and inspections shall apply in the town:

(1) *Inspection service fees.* Charges to businesses for required periodic fire inspections. Charges based on gross square footage for periodic fire inspections. Frequency of inspections corresponds with the fire inspection schedule.

Categories	Inspection and First Inspection		Second and Subsequent Reinspection (Each)
a. 1 sq. ft.--2,500 sq. ft.	No charge	$ 30.00	
b. 2,501 sq. ft.--5,000 sq. ft.	No charge	100.00	
c. 5,001 sq. ft.--10,000 sq. ft.	No charge	200.00	
d. 10,001 sq. ft.--25,000 sq. ft.		No charge	400.00
e. 25,001 sq. ft.--50,000 sq. ft.		No charge	600.00
f. 50,001 sq. ft.--100,000 sq. ft.		No charge	800.00
g. 100,001 sq. ft.--500,000 sq. ft.		No charge	1,000.00
h. 500,000 sq. ft. +	No charge	1,200.00	

(2) *Annual permit fee:*

a. Hazardous chemicals	$100.00	
b. Commercial public fireworks display		100.00 (per display)
c. Underground storage tank removal		100.00 (per tank)
d. Explosive materials	25.00	
e. All other permits required by chapter 4 of the state Fire Prevention Code		15.00 (each)

(3) *Penalties.*

a. Civil penalty (Imminent danger/hazard--Life safety code violations) (Example: Locked/blocked exits, overcapacity, etc.)

1. Fire offense	$100.00 (per violation)
2. Second offense	$250.00 (per violation)
3. Third offense	$500.00 (per violation)

b. Civil penalty (non-life safety code violations)
-$25.00 per day for each violation

(4) *Fire inspection schedule.*

Minimum Frequency	Occupancy Type
Once every year	Hazardous occupancies
	High rise occupancies
	Industrial occupancies
	Educational occupancies (except public schools)
	Multiple business occupancies (located within a single structure)
	Residential occupancies (except one- and two-family dwellings and individual units of multiple dwellings)
	Assembly occupancies
	General business (not listed above)
	Mercantile
	Storage

(Ord. No. 94-62, 3-27-95)

Sec. 22-62. Fire hydrant regulations.

(a) *Parking prohibited near fire hydrants.*

(1) It shall be unlawful for any person to stop, stand or park any vehicle or equipment within 25 feet in either direction of a fire hydrant and ten feet in front of or behind the hydrant between street right-of-way unless a greater or lesser distance is designated by action of the town board and appropriate signs or markings are displayed.

(2) All fire hydrants designated by the fire chief shall be marked with one of the following methods:

a. Hydrant zone sign.

b. Painted curbs indicating the hydrant zone.

c. Street markings indicating the hydrant zone.

(b) *Access to fire hydrants.* It shall be unlawful for any person(s) or contractor(s) performing construction work to block or otherwise prevent access to a fire hydrant for any reason. The general contractor shall be responsible for keeping fire hydrants fully accessible and operational during construction work.

(c) *Landscape clearance.* A minimum six-foot clearance around all fire hydrants must be maintained free of any plant material, except grass used for lawn purposes. In addition, landscaping material is not

permitted to block access or impair the use of any fire hydrant.

(d) *Unauthorized use of fire hydrants.* It shall be unlawful for any person to use or tamper with any fire hydrant within the town or to release water from any public fire hydrant, except duly authorized town employees in the discharge of their duties, unless approval is first obtained from the fire chief.
(Ord. No. 94-62, 3-27-95)

Sec. 22-63. Hydrant water meter policy.

(a) All water, except that which is exempt, used from the town's water system shall be metered using town-owned water meters. This section specifically covers hydrant water meters used for the bulk purchase of water by any person(s), firm, or corporation. It does not cover water meters used for irrigation purposes or customary use by residential and commercial customers.

Any person, firm, or corporation requesting a water meter to be placed on a fire hydrant must establish an account with the town by first completing a bulk water purchase application and submitting a deposit payable to the town in the amount of $250.00. The deposit will be returned when the account is closed out and provided all equipment is returned undamaged and in proper working condition.

(b) Each account will be charged a one time set up charge of $25.00 in addition to the fees set forth below:

Daily meter rental	$20.00 per day
Hydrant wrench	$5.00 per day
Administrative charge	$5.00 per month, 2nd month and beyond
Water rates	The charge for the first 2500 gallons of water will be calculated by using the rate/1000 gallons in effect at the time the meter is requested times a factor of 2. The charge for each subsequent 1000 gallons of water or fraction thereof will be calculated using a factor of 1.5 times the rate in effect.

Exception
Meters used for one day only will be billed a minimum of $30.00 plus the applicable water rate charges. Meters used for 15 consecutive days or more will be charged $20.00 for the first day and $15.00 per day starting with the second and any subsequent days.

On the occasion that the meter is issued to a person, firm, or corporation for more than 60 days or more the rates stated above may be modified by the town manager.

(c) *Billing.* Fees for meters used one day only are due the day the meter is used. All other accounts will be billed every 25 days or when the accounts are closed out whichever is sooner. These accounts are due and payable by the tenth day of the following month. All delinquent accounts will be assessed a finance charge of 1 1/2 percent per month on the unpaid balance and may be subject to a late payment penalty of $25.00. In addition, a hydrant meter will not be issued to any account that is not current.

(d) *Scheduling a meter.* The applicant is responsible for scheduling with the fire department when the meter is needed. The fire department reserves the right to select the hydrant location where the meter is to be used. Meters shall be installed only when the weather is permissible and when the temperature is 35 degrees Fahrenheit or above and rising. Twenty-four-hour notice is required to schedule or cancel a hydrant meter set up

without being charged the $20.00 daily meter rental rate. Hydrant meters will not be available for use on Saturdays, Sundays or town holidays unless prior approval has been obtained from the fire chief.

(e) *Damage and theft of hydrant meters.* Upon completion of the hydrant meter use and prior to closing the account and returning the deposit, the meter and all associated equipment will be inspected by the fire department for any damage. The applicant will be responsible for reimbursing the town for any and all costs associated with repairing a meter while in their use. The cost for such repair will be the actual repair cost incurred by the town along with any applicable taxes and a 15 percent handling fee.

In the event the meter is damaged beyond repair or otherwise lost, the applicant agrees to reimburse the town for the actual replacement cost for a meter of like kind and quality. In addition to all applicable shipping and handling charges, and taxes.
(Ord. No. 94-62, 3-27-95)

Sec. 22-64. Penalties.

Any person(s), firm, or corporation violating the provisions of the fire hydrant regulation or fire hydrant meter policy shall be liable for a civil penalty in the amount of $1,000.00.
(Ord. No. 94-62, 3-27-95)

Secs. 22-65--22-75. Reserved.

ARTICLE III.

OPEN BURNING

Sec. 22-76. Purpose and scope.

(a) *Purpose.* The purpose of this article is to control air pollution resulting from the open burning of combustible materials and to establish open burning regulations within the Town of Morrisville's jurisdiction.

(b) *Scope.* This article applies to all operations involving open burning. The authority to conduct open burning under this article does not exempt or excuse any person from the consequences, damages or injuries which may result from this conduct. It does not excuse or exempt any person from complying with all applicable laws, ordinances, rules or orders of any other governmental entity having jurisdiction even though the open burning is conducted in compliance with this article.
(Ord. No. 98-5, 2-9-98)

Sec. 22-77. Definitions.

Dangerous materials means explosives or containers used in the holding or transporting of explosives.

Nuisance means causing physical irritation exacerbating a documented medical condition, visibility impairment, or evidence of soot or ash on property or structure other than the property on which the burning is done.

Open burning means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a stack, chimney, or a permitted air pollution control device.

Person as used in section 22-76:

(1) The person in operational control over the open burning, or

(2) The landowner or person in possession or control of the land when he has directly or indirectly allowed the open burning or has benefited from it.

Synthetic material means man-made material, including tires, asphalt materials such as shingles or asphaltic roofing materials, construction materials, packaging for construction materials, wire, electrical insulation, and treated or coated wood.
(Ord. No. 98-5, 2-9-98)

Sec. 22-78. Permissible open burning with a permit.

The following types of open burning are permissible with a permit:

(1) Small outdoor warming fires used on construction sites or other areas are permissible, subject to the following conditions:

a. A permit issued by the fire department shall be obtained prior to operating any type of warming fire.

b. Warming fires shall be initiated and contained in approved containers at all times.

c. Warming fires shall be attended by a responsible individual at all times and approved containers shall be appropriately ventilated in at least three places.

d. Warming fires in approved containers shall be located not less than 15 feet from any structure.

e. An appropriate means of controlling the fire (i.e. extinguishers) shall be available while the fire is burning.

f. Only untreated lumber shall be burned in warming fires. Burning construction materials like insulation, asphaltic materials, or treated lumber is prohibited. Warming fires shall not be used to dispose of paper, trash, excess construction materials or other synthetic salvageable materials.

(2) Fires purposely set to forest lands for forest management practices acceptable to the division of forest resources.

(3) Fires purposely set to agricultural lands for disease and pest control and fires set for other

agricultural or apicultural practices acceptable to the department of agriculture.

(4) Fires purposely set for wildlife management practices acceptable to the wildlife management commission.

(5) Fires for the disposal of dangerous materials when it is the safest and most practical method of disposal.

(6) Fires for the disposal of material generated as a result of a natural disaster, such as tornado, hurricane, or flood if the state department of environmental health and natural resources regional office supervisor grants permission for the burning. The person desiring to do the burning shall document to the DEHNR regional office supervisor of the appropriate regional office that there is no other practical method of disposal of the waste. Factors that the regional office supervisor shall consider in granting permission for the burning include type, amount, and nature of combustible substances. The regional office supervisor shall not grant permission for the burning if the primary purpose of the fire is to dispose of synthetic materials or refuse or recovery of salvageable materials.

(7) Fires purposely set by manufacturers of fire extinguishing materials or equipment, testing laboratories, or other persons, for the purpose of testing or developing these materials or equipment in accordance with a valid standard qualification program.

(Ord. No. 98-5, 2-9-98)

Sec. 22-79. Permissible open burning without a permit.

The following types of open burning are permissible without a permit:

(1) Camp fires and fires used solely for outdoor cooking and other recreational purposes, or for ceremonial occasions.

(2) Fires purposely set for the instruction and training of firefighting personnel, including fires at permanent firefighting training facilities, or when conducted under the supervision of or with the cooperation of one or more of the following agencies:

a. The division of forest resources.

b. The North Carolina Department of Insurance.

c. North Carolina community colleges, including:

1. The North Carolina Fire College, or

2. The North Carolina Rescue College.

(3) Fires not described in subparagraph (2) of this section, purposely set for the instruction and training of firefighting personnel, provided that:

a. The regional office supervisor of the appropriate regional office and the AHMB have been notified according to the procedures and deadlines contained in the appropriate regional notification form. This form may be obtained by writing the appropriate regional office.

b. The regional office supervisor has granted permission for the burning. Factors that the regional office supervisor shall consider in granting permission for the burning include type, amount, and nature of combustible substances. The regional office supervisor shall not grant permission for the burning of salvageable items, such as insulated wire and electric motors or if the primary purpose of the fire is to dispose of synthetic materials or refuse. The regional office supervisor of the appropriate regional office shall not consider previously demolished structures as having training value. However, the regional office supervisor of the appropriate regional office may allow an exercise involving the burning of motor vehicles burned over a period of time by a training unit or by several related training units. Any deviations from the dates and times of exercises, including additions, postponements, and deletions, submitted in the schedule in the approved plan shall be communicated verbally to the regional office supervisor of the appropriate regional office at least one hour before the burn is scheduled.

(Ord. No. 98-5, 2-9-98)

ARTICLE IV.

PIT-BURNING

Sec. 22-80. Purpose and scope.

(a) *Purpose.* The purpose of this article is to control air pollution resulting from the pit-burning of combustible materials and to establish pit-burning regulations within the town's jurisdiction.

(b) *Scope.* This article applies to all operations involving pit-burning. The authority to conduct pit-burning under this article does not exempt or excuse any person from the consequences, damages or injuries which may result from this conduct. It does not excuse or exempt any person from complying with all applicable laws, ordinances, rules or orders of any other governmental entity having jurisdiction even though the pit-burning is conducted in compliance with this article.

(Ord. No. 01-53, 9-10-01)

Sec. 22-81. Definitions.

[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:]

Land clearing means the uprooting or clearing of vegetation in connection with construction for buildings; right-of-way; agricultural, residential, commercial, or industrial development; mining activities; or the initial clearing of vegetation to enhance property value; but does not include routine maintenance or property clean-up activities.

Nuisance means causing physical irritation exacerbating a documented medical condition, visibility impairment, or evidence of soot or ash on property or structure other than the property on which the burning is done.

Pit-burning means using a portable combustion device that directs a plane of high velocity forced draft air through a manifold head into a pit with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain.

Public road means any road that is part of the state highway system; or any road, street, or right-of-way dedicated or maintained for public use by the town.

Structure means a building in which people may live or work or one intended for housing farm or other domestic animals.
(Ord. No. 01-53, 9-10-01)

Sec. 22-82. Permissible pit-burning with a permit.

The burning of waste materials, trees, brush and other vegetable matter in connection with land clearing activities is permissible with the following limitations and requirements:

(1) Pits must be located a minimum of 1,000 feet from any structure, and a minimum of 250 feet from any public road.

(2) The pits dug for burns shall be a minimum size of seven feet deep, nine feet wide, and 35 feet in length.

(3) Pit-burning must be requested at time of site plan submittal and approved by the board of commissioners during site plan approval.

(4) The fire department will be responsible for issuing a pit-burning permit. A pit-burning permit application must be submitted and permit fee paid prior to the issuing of the permit.

(5) The location of the pit must be approved by the fire department prior to the fire department issuing a permit. The pit must be located outside building pad areas, and pits must be cleaned out and backfilled with compacted select backfill at the completion of burning operations.

(6) Prevailing winds at the time of burning must not exceed ten miles per hour. Prevailing winds at the time of burning shall be away from any area, including public road within 300 feet of the burning as measured from the edge of the pavement or other roadway surface, which may be significantly affected by smoke, ash, or other air pollutants from the burning.

(7) Only collected land clearing may be burned (no construction or yard waste materials). Heavy oils, asphaltic materials, items containing natural or synthetic rubber, tires, grass clippings, collected leaves, paper products, plastics, general trash, garbage, or any materials containing painted or treated wood materials shall not be burned. Leaves still on trees or brush may be

burned.

(8) Burning is only allowed Monday through Friday, and burning shall be conducted only between the hours of 8:00 a.m. and 6:00 p.m.

(9) The pit must be monitored 24 hours a day or covered at the end of the day with a minimum of 12 inches of soil such that the fire is extinguished and no smoke leaves the pit.

(10) The permittee must check with state forestry services to ensure there are no burning bans or additional burning restrictions in effect prior to burning.

(11) Burning is not allowed on "Code Red" ozone days.

(12) A path for four-wheel emergency vehicles shall be provided.

(13) The pit-burning permit may be revoked by town staff (town manager, fire chief, town engineer, or their designees) if the pit- burning is determined to be a nuisance.

(14) Burning must comply with applicable state air quality standards.

(15) Pit-burning portable combustion devices shall meet manufacturers specifications for operation and upkeep to ensure complete burning of material charged into the pit. Manufacturers specifications shall be kept on site and be available for inspection by staff.

(16) The owner or operator of the pit-burning operation shall not allow ash to build up in the pit to a depth higher than one-third of the depth of the pit or to the point where the ash begins to impede combustion, whichever occurs first.

(17) The owner or operator of the pit-burning operation shall not load material into the pit such that it will protrude above portable combustion device or the top of the pit, whichever is lower.

(18) Only distillate oil, kerosene, diesel fuel, natural gas, or liquefied petroleum gas may be used to start the fire.

(Ord. No. 01-53, 9-10-01)

Chapters 23--25

RESERVED

Chapter 26

FLOODS*

* **Cross References:** Buildings and building regulations, ch. 10; civil emergencies, ch. 14.

Municipal authority to enact and enforce floodway regulation ordinances, G.S. 160A-458.1; authority to construct dikes, etc., for the control of beach erosion and flooding, G.S. 160A-491.

Article I. In General

Secs. 26-1--26-35. Reserved.

Article II. Flood Damage Prevention

Division 1. Generally

Sec. 26-36. Definitions.
Sec. 26-37. Findings of fact.
Sec. 26-38. Statement of purpose.
Sec. 26-39. Methods of reducing flood losses.
Sec. 26-40. Lands to which this article applies.
Sec. 26-41. Basis for establishing areas of special flood hazard.
Sec. 26-42. Establishment of development permit.
Sec. 26-43. Penalties for noncompliance.
Sec. 26-44. Abrogation and greater restrictions.
Sec. 26-45. Interpretation.
Sec. 26-46. Warning and disclaimer of liability.
Secs. 26-47--26-65. Reserved.

Division 2. Administration

Sec. 26-66. Designation of administrator.
Sec. 26-67. Duties, responsibilities of building inspector.
Sec. 26-68. Requirements for building permit in flood hazard areas.
Sec. 26-69. Appeal and variance procedure.
Secs. 26-70--26-85. Reserved.

Division 3. Flood Hazard Reduction

Sec. 26-86. General standards for all areas of special flood hazard.
Sec. 26-87. Specific standards for certain areas.
Sec. 26-88. Floodways.
Sec. 26-89. Enforcement.
Sec. 26-90. Standards for streams without established base flood elevations and/or floodways.
Sec. 26-91. Standards for areas of shallow flooding (AO zones).

ARTICLE I.

IN GENERAL

Secs. 26-1--26-35. Reserved.

ARTICLE II.

FLOOD DAMAGE PREVENTION

DIVISION 1.

GENERALLY

Sec. 26-36. Definitions.

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. Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

Appeal means a request for a review of the building inspector's interpretation of any provision of this article or a request for a variance, according to this article.

Area of shallow flooding means a designated AO or VO zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within the town and its extraterritorial jurisdiction subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equalled or exceeded in any given year.

Basement means that lowest level or story which has its floor subgrade on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. A wall with loading resistance of more than 20 pounds per square foot requires an architect or professional engineer's certificate.

Building means any structure built for support, shelter or enclosure for any occupancy or storage.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

Elevated building means a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), shear walls or breakaway walls.

Existing manufactured home park or manufactured home subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before January 13, 1992.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland waters; and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means the official map of the town and its surrounding area, issued by the Federal Insurance Administration where the areas of special flood hazard have been designated as zone A.

Flood insurance rate map (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the town and its surrounding area.

Flood insurance study means the official report provided in which the Federal Emergency Management Agency has provided flood profiles, as well as the flood boundary-floodway map and the water surface elevation of the base flood.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in a wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound

engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this article, the term is synonymous with National Geodetic Vertical Datum (NGVD).

New construction means structures for which the start of construction commenced on or after January 13, 1992.

Program deficiency means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the standards in division 3 of this article.

Remedy a violation means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced including protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this article or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure means a walled and roofed building that is principally aboveground, a manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.

Substantial improvement means any repair, reconstruction or improvement of a structure, within any 12-month period, where the cost equals or exceeds 50 percent of the market value of the structure, either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state and local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Variance means a grant of relief to a person from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in divisions 2 and 3 is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Ord. No. 92-3A, § 17.4, 1-13-92)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 26-37. Findings of fact.

(a) The flood hazard areas of the town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.
(Ord. No. 92-3A, § 17.1, 1-13-92)

Sec. 26-38. Statement of purpose.

The purposes of this article are to:

(1) Protect human life and health.

(2) Minimize expenditure of public money for costly flood control projects.

(3) Minimize the need for rescue and relief efforts associated with flooding and generally

undertaken at the expense of the general public.

(4) Minimize prolonged business interruptions.

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.

(6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.

(7) Ensure that potential buyers are notified that property is in an area of special flood hazard.

(8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Ord. No. 92-3A, § 17.2, 1-13-92)

Sec. 26-39. Methods of reducing flood losses.

In order to accomplish its purposes, this article includes methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters.

(4) Controlling filling, grading, dredging and other development which may increase flood damage.

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Ord. No. 92-3A, § 17.3, 1-13-92)

Sec. 26-40. Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the zoning jurisdiction of the town.

(Ord. No. 92-3A, § 17.5, 1-13-92)

Sec. 26-41. Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Morrisville, North Carolina," dated May, 1978, with accompanying flood insurance rate maps and flood boundary-floodway maps, and any

revisions thereto, are hereby adopted by reference and declared to be a part of this article. The flood insurance study is filed at the town hall.
(Ord. No. 92-3A, § 17.6, 1-13-92)

Sec. 26-42. Establishment of development permit.

A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities.
(Ord. No. 92-3A, § 17.7, 1-13-92)

Sec. 26-43. Penalties for noncompliance.

No structure or land shall be constructed, located, extended, converted or altered without full compliance with the terms of this article and other applicable regulations. Penalties for noncompliance shall be as set forth in section 26-89.
(Ord. No. 92-3A, § 17.8, 1-13-92)

Sec. 26-44. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Ord. No. 92-3A, § 17.9, 1-13-92)

Sec. 26-45. Interpretation.

In the interpretation and application of this article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor for the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.
(Ord. No. 92-3A, § 17.10, 1-13-92)

Sec. 26-46. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside the area of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the town, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.
(Ord. No. 92-3A, § 17.11, 1-13-92)

Secs. 26-47--26-65. Reserved.

DIVISION 2.

ADMINISTRATION*

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* **Cross References:** Administration, ch. 2.

Sec. 26-66. Designation of administrator.

The building inspector is hereby appointed to administer and implement this article by granting or denying building permit applications in accordance with its provisions.
(Ord. No. 92-3A, § 17.13, 1-13-92)

Sec. 26-67. Duties, responsibilities of building inspector.

Duties of the building inspector shall include, but not be limited to:

(1) Permit review.

a. Review all building permits in areas of special flood hazard to determine that the permit requirements of this article have been satisfied.

b. Review all building permits in special flood hazard areas to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

c. Review all building permits in special flood hazard areas to determine if the proposed development is located in the floodway. If located in the floodway, ensure that the encroachment provisions of section 26-88 are met.

(2) Use of other base flood data. When base flood elevation data has not been provided in accordance with section 26-41 the building inspector shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer sections 26-87(1) and 26-87(2).

(3) Information to be obtained and maintained.

a. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with section 26-68(5).

b. For all new substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level); and

2. Maintain the floodproofing certifications required in section 26-68(3).

(4) Alteration of watercourses.

a. Notify adjacent communities and the state department of natural resources and community development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

b. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(5) Interpretation of FIRM boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 26-69.

(6) Certification.

a. Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of section 26-88 are met.

b. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, in accordance with section 26-68(5).

(7) Floodproofing.

a. When floodproofing is utilized for a particular structure, the building inspector shall obtain certain certifications from a registered professional engineer or architect in accordance with section 26-86.

b. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the building inspector shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this division.

c. When base flood elevation data has not been provided in accordance with section 26-41, the building inspector shall obtain, review and reasonably utilize base flood elevation data available from a federal, state or other source, including that developed pursuant to section 26-87(2), in order to administer the provisions of this article.

d. All records pertaining to the provisions of this article shall be maintained in the office of the building inspector and shall be open for public inspection.

(Ord. No. 92-3A, § 17.14, 1-13-92)

Sec. 26-68. Requirements for building permit in flood hazard areas.

A building permit shall be obtained before construction or development begins within any area of special flood hazard established in section 26-41, regardless of whether or not such a permit would be required by section 26-42. Application for a building permit shall be made to the building inspector and shall include all information required in section 26-66, as well as plans in triplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing, and any other information required by the building inspector for proper review of the application. Specifically, the following information is required:

(1) Where base flood elevation data is provided in accordance with section 26-67, the application for a development permit within zone A on the flood insurance rate map shall show:

a. The elevation (in relation to mean sea level) of the lowest floor, including basement, of all new and substantially improved structures; and

b. If the structure has been floodproofed in accordance with section 26-87(2), the elevation (in relation to mean sea level) to which the structure was floodproofed.

(2) Where the base flood elevation data is not provided, the application for a development permit must show construction of the lowest floor at least two feet above the highest adjacent grade.

(3) Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include: a description of the extent of waterfall alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.

(4) When a structure is floodproofed, the applicant shall provide a certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in section 26-87(2).

(5) A floor elevation or floodproofing certification is required after the lowest floor is completed. Within 21 calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 21-day calendar period and prior to submission of the certification shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder

immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make the corrections required hereby shall be cause to issue a stop-work order for the project.

(Ord. No. 92-3A, § 17.12, 1-13-92)

Sec. 26-69. Appeal and variance procedure.

(a) *Appeal board.*

(1) The board of adjustment as established by the town shall hear and decide appeals and requests for variances from the requirements of this article.

(2) The board of adjustment shall hear and decide appeals when it is alleged there is an error in any requirements, decision or determination made by the building inspector in the enforcement or administration of this article.

(3) Those aggrieved by the decision of the building inspector, or any taxpayer, may appeal such decision to the superior court, as provided in G.S. ch. 7A.

(4) In passing upon such application for appeals and variances, the board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and:

a. The danger that materials may be swept onto other lands to the injury of others.

b. The danger to life and property due to flooding or erosion damage.

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

d. The importance of the services provided by the proposed facility to the community.

e. The necessity to the facility of a waterfront location where applicable.

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

g. The compatibility of the proposed use with existing and anticipated development.

h. The relationship of the proposed use to the comprehensive plan and floodplain management program of that area.

i. The safety of access to the property in times of flood for ordinary and emergency vehicles.

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the

floodwaters expected at the site.

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(5) Upon consideration of the factors of subsection (a)(4) of this section and the purposes of this article, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this article.

(6) The building inspector shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

(b) *Conditions for variances.*

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot on one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (a)(4)a. through k. of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (a)(4) or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced

lowest floor elevation. Such notification shall be maintained with a record of all variance actions. (Ord. No. 92-3A, § 17.15, 1-13-92)

Secs. 26-70--26-85. Reserved.

DIVISION 3.

FLOOD HAZARD REDUCTION

Sec. 26-86. General standards for all areas of special flood hazard.

In all areas of special flood hazard the following standards are required:

(1) *Anchoring.*

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Special requirements shall be that:

1. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;

2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;

3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

4. Any additions to the manufactured home be similarly anchored.

(2) *Construction materials and methods.* All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) *Utilities.*

a. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

b. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

d. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

e. Any alteration, repair, reconstruction of improvements to a structure which is in compliance with the provisions of this article, shall meet the requirements of new construction as contained in this article.

f. All new and replacement mechanical and utility equipment shall be designed and/or elevated to prevent water from entering or accumulating in its components.

(4) *Subdivision proposals.*

a. All subdivision proposals shall be consistent with the need to minimize flood damage.

b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

d. Base flood elevation data shall be provided for all new subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) which contain at least 50 lots or five acres, whichever is less.

(Ord. No. 92-3A, § 17.16, 1-13-92)

Sec. 26-87. Specific standards for certain areas.

In all areas of special flood hazard where base flood elevation data have been provided as set forth in section 26-41 or in section 26-67(2), the following standards are required:

(1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided.

(2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or nonresidential structure shall have the lowest floor, including basement, elevated no lower than one foot above the level of the base flood elevation. Structures located in A zones may be floodproofed in lieu of elevation provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic

loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 26-67(3).

(3) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottoms of all openings shall be no higher than one foot above grade; and

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

b. Electrical, plumbing and other utility connections are prohibited below the base flood elevation.

c. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

d. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(4) *Manufactured homes.*

a. Manufactured homes that are placed or substantially improved on sites outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

b. Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of subsection (4)a. of this section must be elevated so that the lowest floor of the manufactured home is elevated no lower than one foot above the base flood elevation,

and be securely anchored to an adequately anchored foundation to resist flotation, collapse and lateral movement.

c. Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse or lateral movement in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to G.S. 143-15. Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the sight, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.

d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within floodprone areas. This plan shall be filed with and approved by the local administrator and the local emergency management coordinator.

(Ord. No. 92-3A, § 17.17, 1-13-92)

Sec. 26-88. Floodways.

Located within areas of special flood hazard established in section 26-41 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of sections 26-86 through 26-88.

(3) Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided anchoring standards of section 26-86, and the elevation standards of section 26-87 are met.

(Ord. No. 92-3A, § 17.18, 1-13-92)

Sec. 26-89. Enforcement.

(a) *Inspections of work in progress.* As the work pursuant to a permit progresses, the local administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this article and the terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial

jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(b) *Stop orders.* Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this article, the administrator may order the work to be immediately stopped. The stop order shall be in writing and directed to the person doing the work. The stop order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop order constitutes a misdemeanor.

(c) *Revocation of permits.* The local administrator may revoke and require the return of the development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(d) *Right of entry.* The local administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(e) *Violations to be corrected.* When the local administrator finds violations of applicable state and local laws, it shall be his duty to notify the owner or occupant of the building of violation. The owner or occupant shall each immediately remedy the violations of law in the property he owns.

(f) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the administrator shall give him written notice, by certified or registered mail to his last known address or by personal service:

(1) That the building or property is in violation of the flood damage prevention ordinance (this article);

(2) That a hearing will be held before the local administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the local administrator may issue such order to alter, vacate or demolish the building, or to remove fill as appears appropriate.

(g) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the administrator shall find that the building or development is in violation of this article, he shall make an order in writing to the owner, requiring the owner to remedy the violation, within such period, not less than 60 days, as the administrator may prescribe; provided, that where the administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

(h) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the board of commissioners by giving notice of appeal in writing to the administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the administrator

shall be final. The board of commissioners shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(i) *Failure to comply with order*. If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the board of commissioners following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.
(Ord. No. 92-3A, § 17.19, 1-13-92)

Sec. 26-90. Standards for streams without established base flood elevations and/or floodways.

Located within the areas of special flood hazard established in section 26-41, where small streams exist but where no base flood data has been provided or where no floodways have been provided, the following provisions shall apply:

(1) No encroachments, including fill material or structures, shall be located within a distance of the stream bank equal to three times the width of the stream at the top of bank or 20 feet each side from top of bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) New construction or substantial improvements of structures shall be elevated or floodproofed in accordance with elevations established in accordance with section 26-67. When base flood elevation data is not available from a federal, state or other source the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.
(Ord. No. 92-3A, § 17.20, 1-13-92)

Sec. 26-91. Standards for areas of shallow flooding (AO zones).

Located within the areas of special flood hazard established in section 26-41 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions shall apply:

(1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.

(2) All new construction and substantial improvements of nonresidential structures shall:

a. Have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or

b. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level, and so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(Ord. No. 92-3A, § 17.21, 1-13-92)

Chapters 27--29

RESERVED

Chapter 30

LAW ENFORCEMENT*

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* **Cross References:** Administration, ch. 2.
State Law References: Municipal law enforcement generally, G.S. 160A-281 et seq.

Article I. In General

Secs. 30-1--30-35. Reserved.

Article II. Alarm Systems

Sec. 30-36. Definitions.
Sec. 30-37. False alarm policy.
Sec. 30-38. Automatic dialing protection devices prohibited.
Sec. 30-39. Prohibited acts.
Sec. 30-40. Enforcement of provisions; methods of enforcement.
Sec. 30-41. Appeal to town manager.
Sec. 30-42. Duties of the chief of police

ARTICLE I.

IN GENERAL

Secs. 30-1--30-35. Reserved.

ARTICLE II.

ALARM SYSTEMS*

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* **Editors Note:** Ord. No. 01-46, adopted Aug. 13, 2001, enacted new provisions which in effect superseded provisions formerly set out as art. II of this chapter. Former art. II, §§ 30-36--30-38, pertained to alarm systems and derived from an ordinance of Oct. 26, 1987, §§ 1--3; and Ord. No. 95-10, §§ 1--4, adopted Jan. 23, 1995. Sections 1--7 of Ord. No. 01-46 have been included herein as a new art. III, §§ 30-36--30-42, at the editor's discretion.
State Law References: Giving false fire alarms, G.S. 14-286; making false ambulance request, G.S. 14-286.1; alarm systems defined, G.S. 74D-2.

Sec. 30-36. Definitions.

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 requires otherwise:

Alarm system means any type of electronic hold-up or burglar alarm installed in any nonresidential property within the corporate limits of the town.

Alarm user means any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning or leasing an alarm system, or on whose premises an alarm system is

maintained for the protection of such premises.

Automatic dial protection device means an automatic dialing device or an automatic telephone dialing alarm system and shall include any system which, upon being activated, automatically initiates to the police department, a recorded message or code signal indicating a need for police response.

Employee means any person holding an entry key, code and/or card to enter the property whether it be a full time or part time person, or a person conducting any business therein.

False alarm means an alarm signal generated by an alarm system which results in the dispatching of police department personnel to the alarm system premises, when the alarm system is improperly set off due to faulty alarm panel, electronic card reader, door sensor, window sensor, glass breakage sensor, floor sensor, infrared system or motion detector for any reason including installation, repair, or any employee entering the property for any lawful reason, but improperly entering the alarm code or causing the alarm to activate for any reason or for any reason other than the alarms intended purpose for which the alarm system was designed and installed. A false alarm does not include any alarm system signal generated by severe weather conditions, utility service interruption beyond the control of the owner/operator, an act of God or the premises are unlawfully entered by any employee or alarm user.

Quarter means the fourth part of a measure of time: as one of a set of four three-month divisions of a year.
(Ord. No. 01-46, § 1, 8-13-01)

Sec. 30-37. False alarm policy.

(a) If an alarm system generates three false alarms in any quarter, the chief of police shall notify the owner or operator of the premises where the alarm system is installed by certified mail, that such alarm system is in violation of the alarm policy set forth by the town board. Such alarm system will be placed under probation for the remainder of that quarter. The probationary period shall begin when the chief of police receives a receipt showing the above mentioned party has received the certified letter.

(b) If, at any time during the probationary quarter following the written notice by the chief of police, the same alarm system generates a false alarm, the business where the system is installed shall be liable to the town for any and all civil penalty in the following amounts:

Fourth false alarm . . . . . $ 50.00

Fifth false alarm 75.00

Sixth and subsequent false alarms 100.00

Maximum penalty per day shall not exceed 300.00
(Ord. No. 01-46, § 2, 8-13-01)

Sec. 30-38. Automatic dialing protection devices prohibited.

No automatic dial protection device shall be used to report, or cause to be reported, any recorded message to the police department.
(Ord. No. 01-46, § 3, 8-13-01)

Sec. 30-39. Prohibited acts.

(a) It shall be unlawful for any person to violate any provision of this article.

(b) It shall be unlawful for any person to activate a burglary or robbery alarm for the purpose of summoning police when no burglary or robbery, or other crime dangerous to life or property, is being committed or attempted on the premises, or otherwise to cause a false alarm.

(c) It shall be unlawful for an alarm user to fail to reimburse the town, in accordance with the provisions of this article, for response(s) by the police department to any false alarm(s).
(Ord. No. 01-46, § 4, 8-13-01)

Sec. 30-40. Enforcement of provisions; methods of enforcement.

The town may enforce the provisions of this article by one or combination of the following methods:

(1) *Civil penalty.* Any person who violates any provision of this article may be fined by a civil penalty of $100.00 which may be recovered by the town in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days from the date the violator is notified of the penalty. Any other service charges imposed by this article may be collected by the town as a civil penalty in a civil action.

(2) *Equitable remedy.* The town may apply to a court of competent jurisdiction for an injunction, abatement order or any other appropriate equitable remedy.
(Ord. No. 01-46, § 5, 8-13-01)

Sec. 30-41. Appeal to town manager.

Any owner of premises subject to a civil penalty under the terms of this article may, within 30 days after notification of such penalty, appeal the penalty to the town manager. The town manager is authorized to affirm, compromise, or waive the entire penalty based on evidence provided to him by the owner of the premises.
(Ord. No. 01-46, § 6, 8-13-01)

Sec. 30-42. Duties of the chief of police

The chief of police shall be responsible for recording all pertinent date and information regarding false burglar or hold-up alarms within the town's corporate limits and shall report all such information to the town manager once a month.
(Ord. No. 01-46, § 7, 8-13-01)

Chapter 31

RESERVED

Chapter 32

LICENSES AND BUSINESS REGULATIONS*

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* **Editors Note:** Ord. No. 95-25, adopted Mar. 27, 1995, did not specifically amend this Code; hence, its provisions have been added under a new ch. 32, licenses and business regulations, as art. II, §§ 32-36--32-91 at the discretion of the editor.

Article I. In General

Secs. 32-1--32-35. Reserved.

Article II. Privilege License Fee Regulations

Division 1. In General

Sec. 32-36. Definitions.
Sec. 32-37. Construction of this article.
Secs. 32-38--32-45. Reserved.

Division 2. Levy

Sec. 32-46. Levy of fee.
Sec. 32-47. Privilege license requirements.
Sec. 32-48. Period of license; due date.
Sec. 32-49. Proration of privilege license fee.
Sec. 32-50. Refunds.
Sec. 32-51. Separate businesses.
Sec. 32-52. Exemptions.
Secs. 32-53--32-60. Reserved.

Division 3. Licenses

Sec. 32-61. Application.
Sec. 32-62. Reasons for refusal or revocation of a license.
Sec. 32-63. Unqualified applicants; right to a conference.
Sec. 32-64. Town to issue license; payment of privilege license fee a prerequisite.
Sec. 32-65. Amount of privilege license fee disputed.
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Sec. 32-67. Forms and contents of license.
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Sec. 32-70. Town to furnish duplicates.
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Sec. 32-91. Enforcement of article.

ARTICLE I.

IN GENERAL

Secs. 32-1--32-35. Reserved.

ARTICLE II.

PRIVILEGE LICENSE FEE REGULATIONS

DIVISION 1.

IN GENERAL

Sec. 32-36. Definitions.

The following words, whenever they are used in this article, shall be deemed to have the following meanings:

Business: Includes each trade, occupation, profession, business, and franchise taxed under this article.

Engaged (or engaging) in business within this town: Engaging in business activity of any type, either as owner or operator of such business:

(1) By maintaining a business location within the town;

(2) By soliciting business within the town; or

(3) By picking up or delivering merchandise or performing services within the town.

Person: Any individual, trustee, executor, other fiduciary, corporation, association, partnership, company, firm, or other legal entity or agent thereof.

Seasonal in nature: A business taxed by this article on an annual basis but operated within the town for less than six months of the year.
(Ord. No. 95-25, 3-27-95)

Sec. 32-37. Construction of this article.

This article is enacted for revenue purposes only. Therefore, it may require payment of the maximum fee permitted under its terms. In addition, issuance of a license in accordance with this article does not excuse a licensee from compliance with any other applicable ordinance or statute. This article does not prevent the town from imposing license taxes on additional businesses, from increasing or decreasing the amount of any license tax, or from regulating any business taxed.
(Ord. No. 95-25, 3-27-95)

Secs. 32-38--32-45. Reserved.

DIVISION 2.

LEVY

Sec. 32-46. Levy of fee.

An annual privilege license fee is hereby levied on each business conducted within the town corporate limits. Privilege license fees are determined periodically by the board of commissioners in accordance with the state revenue laws and are spelled out on the town's privilege license fee schedule.
(Ord. No. 95-25, 3-27-95)

Sec. 32-47. Privilege license requirements.

Each person, except those otherwise exempt by this article, that conducts a business within the town corporate limits is subject to privilege license fees. A person "conducts business" when he engages in one act of business taxed under this article. One conducts the business "within the town" if he (she) maintains a business location within the town corporate limits, or if, either personally or through agents solicits business within the corporate town limits.
(Ord. No. 95-25, 3-27-95)

Sec. 32-48. Period of license; due date.

A license issued in accordance with this article is good for a 12-month period beginning July 1 and ending June 30. To avoid any late charge penalties, all privilege license fees are due and payable to the town by July 1 of each year. In the event a business begins operation after July 1 of a year, the privilege license fee for that year is due before the business is begun.
(Ord. No. 95-25, 3-27-95)

Sec. 32-49. Proration of privilege license fee.

If a business is begun after December 31, the amount of the privilege license fee due will be half the full amount normally required unless the business is seasonal in nature. If a business is seasonal in nature, the amount of privilege license fee due is half the amount otherwise due.
(Ord. No. 95-25, 3-27-95)

Sec. 32-50. Refunds.

If for any reason a licensee discontinues his or her business during the license year, he or she is not entitled to a refund.
(Ord. No. 95-25, 3-27-95)

Sec. 32-51. Separate businesses.

In the event an individual, partnership, corporation, or other entity owns and/or operates more than one business of the same type, each location will be required to have a privilege license. The fee, however, shall be computed on a single business basis.
(Ord. No. 95-25, 3-27-95)

Sec. 32-52. Exemptions.

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

(b) *Nonprofit 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 fee levied by this article.

(c) *Blind persons and members of the armed forces and merchant marine.* Blind persons and persons who serve in the United States armed forces or the merchant marine are exempt from paying any privilege license fee levied by this article to the extent provided by G.S. 105-249 and G.S. 105-249.1.

(d) *Exempt parties.* Any church or religious organizations exempt from paying a privilege license fee levied by this article shall not be required to obtain a license from the town.
(Ord. No. 95-25, 3-27-95; Ord. No. 96-32-A, § 1, 9-9-96)

Secs. 32-53--32-60. Reserved.

DIVISION 3.

LICENSES

Sec. 32-61. Application.

A person shall apply to the town for a privilege license no less than 30 days before the date the privilege license fee is due (July 1 of each year). The application, which shall be submitted on forms provided by the town, shall contain:

(1) The name of the applicant and whether the applicant is an individual, partnership, corporation, or other entity.

(2) The nature of the business.

(3) Physical location including street address of where the business is conducted.

(4) A mailing address where notices and statements may be mailed to as required by this article.

(5) A person and telephone number of a business representative who may be contacted regarding privilege license fee questions.

(6) Whether the business is regulated by a state occupational licensing board subject to G.S. Chapter 93B, and if so, the serial number of the state license the applicant currently holds.

(7) Emergency business information to be supplied to the town's fire and police departments.

(8) Zoning compliance certificate (to be completed by the town planning department).

(9) Any other information the town determines to be necessary to compute the amount of privilege license fee due.

(Ord. No. 95-25, 3-27-95)

Sec. 32-62. Reasons for refusal or revocation of a license.

The town may refuse to issue a license or shall revoke a license for either of the following reasons:

(1) The applicant misrepresents a fact relevant to the amount of privilege license fee due or his or her qualifications for a license.

(2) The applicant refuses to provide information necessary to compute the amount of privilege license fee due.

(Ord. No. 95-25, 3-27-95)

Sec. 32-63. Unqualified applicants; right to a conference.

After receipt of the completed application, if the town believes that a reason exists for refusing a license under section 32-62 of this article, the town shall refuse to accept payment of the privilege license fee and shall not issue the license. At the applicant's request, the town shall, in accordance with section 32-72 of this article, give the applicant a written statement of the reason for refusing the license delivered by certified mail. The applicant may, within ten days after the day the statement is received, request a conference to discuss the refusal. In the request the applicant shall specify why the application for a license should not be refused. The town shall arrange the conference within a reasonable time.

If the collector refuses to issue a license, the applicant may reapply for a license at any time thereafter. If the reason for which the application was refused no longer exists, and if no other reason exists for refusing to issue a license, the town shall issue the license in compliance with section 3-64 of this article.

(Ord. No. 95-25, 3-27-95)

Sec. 32-64. Town to issue license; payment of privilege license fee a prerequisite.

After receipt of the completed application, if the town believes that no reason exists for refusal of a license under section 32-62 of this article, the town shall determine the amount of privilege license fee due and notify the applicant of that amount. The town shall not issue a license until the privilege license fee is paid.

(Ord. No. 95-25, 3-27-95)

Sec. 32-65. Amount of privilege fee disputed.

If disputes arise over the amount the town determines to be due, the applicant may either refuse to pay and request a conference with the town to discuss the determination or pay the amount and request a conference to discuss the right to a refund. If a conference is requested, the town shall arrange it within a reasonable time.
(Ord. No. 95-25, 3-27-95)

Sec. 32-66. Revocation.

The town shall revoke a license if a reason exists to revoke it as set forth in section 32-62 of this article. Before revoking a license, the town shall give the licensee written notice of the grounds for revocation, in accordance with section 32-72 of this article. The licensee may within ten days after the day on which notice is served request a conference with the town in writing. The request shall specify the reasons why the license should not be revoked. The town shall arrange the conference within a reasonable time.

If the licensee fails to request a conference within ten days after the day on which notice is served, the town shall revoke the license. If the licensee requests a conference, the town may not revoke the license until after the conference.

If the town revokes a license, the former licensee may apply for a new license at any time thereafter. If the reason for which the license was revoked no longer exists and if no other reason exists for refusing to issue a license, a town shall issue the license in accordance with section 32-64 of this article.
(Ord. No. 95-25, 3-27-95)

Sec. 32-67. Forms and contents of license.

A license shall show the name of the person and/or business licensed, the place where the business is conducted (if it is to be conducted at one place), the nature of the business licensed, the period for which the license is issued, and the amount of privilege license fee paid. In addition, if a machine is licensed, the license shall show the serial number of the machine. The town shall keep a copy of each license issued.
(Ord. No. 95-25, 3-27-95)

Sec. 32-68. Assignments.

A license may be assigned if:

(1) A business licensed under this article and carried on at a fixed place is sold as a unit to any person, and

(2) The purchaser is to carry on the same business at the same place.

Such a change shall be reported to the town in accordance with section 32-69 of this article. Otherwise, each license issued under this article is a personal privilege and is not assignable.
(Ord. No. 95-25, 3-27-95)

Sec. 32-69. Changes in the business conducted by licensee during the privilege license fee year.

A licensee or an assignee shall report a change in the information contained in the license application to

the town within ten days after the change occurs. If information shown on the license itself is affected, the licensee or assignee shall surrender the license to the town when reporting the change.

(1) *Changes affecting the amount of privilege license fee due.* If there are no reasons for revoking the license under section 32-62 of this article and the change results in the imposition of a separate or additional privilege license fee, the town shall reissue a license reflecting the change upon payment of the separate or additional privilege license fee.

(2) *Changes not affecting the amount of privilege license fee due.* If there are no reasons for revoking the license under section 32-62 of this article and the change does not result in an imposition of a separate or additional privilege license fee, the town shall reissue a license reflecting the change upon payment of a fee determined periodically by the board of commissioners.

(3) *Change requiring refusal of a license.* If there is reason for revoking the license under section 32-62 of this article, the town shall refuse to reissue a license and shall instead begin proceedings to revoke the license in accordance with section 32-49 of this article.

(Ord. No. 95-25, 3-27-95)

Sec. 32-70. Town to furnish duplicates.

Upon satisfactory proof that a license has been lost or destroyed, the town shall furnish a duplicate for a fee determined periodically by the board of commissioners.

(Ord. No. 95-25, 3-27-95)

Sec. 32-71. Record of conferences.

The town shall maintain a record of each conference held in accordance with this article for a time period consistent with the municipal records retention disposition schedule of the town. The record shall contain the applicant's or licensee's name, the date of the conference, and a brief statement of the issues discussed and the result reached. After three years, the town shall dispose of the record in accordance with G.S. 121-5.

(Ord. No. 95-25, 3-27-95)

Sec. 32-72. Providing notice to an applicant or licensee.

Whenever this article requires the town to give a written statement or notice to an applicant or a licensee, the town may do so in one of three ways:

(1) By delivering the statement or notice to the applicant or licensee;

(2) By mailing the statement or notice by certified mail and returning the receipt requested to the address specified for that purpose in the license application; or

(3) By causing the statement or notice to be served on the applicant or licensee in accordance with the procedures for service of process under Rule 4, North Carolina Rules of Civil Procedure.

(Ord. No. 95-25, 3-27-95)

Secs. 32-73--32-80. Reserved.

DIVISION 4.

ENFORCEMENT AND COLLECTION

Sec. 32-81. Duty to determine whether privilege license fee due.

Each person has the duty to determine whether the business he or she conducts is taxed under this article and if so, whether that privilege license fee has been paid for the current tax year.
(Ord. No. 95-25, 3-27-95)

Sec. 32-82. Town to investigate.

If the town has reason to believe that a person is conducting a business in the town in violation of this article, the town shall conduct an investigation to determine the person's tax liability.
(Ord. No. 95-25, 3-27-95)

Sec. 32-83. Duty to keep books.

Each person who conducts a business taxed under this article shall keep all records and books necessary to compute the privilege license fee liability. If a person fails to keep books and records as required, the town shall make a determination of that person's privilege license fee liability from the information available.
(Ord. No. 95-25, 3-27-95)

Sec. 32-84. Duty to permit inspection.

Each person who conducts business in the town shall permit the town 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.
(Ord. No. 95-25, 3-27-95)

Sec. 32-85. Duty to post license.

A licensee shall post the license or licenses conspicuously in the place of business licensed. If the licensee has no regular place of business, the license must be kept where it may be inspected at all times by the proper town officials. If a machine is licensed, the license shall be affixed to the machine.
(Ord. No. 95-25, 3-27-95)

Sec. 32-86. Notice of deficiency.

If the town determines that a person has not paid the full amount of privilege license fee due under this article, either for the current license year or for a prior license year, the town shall give the person written notice of the deficiency, in accordance with section 32-72 of this article. The notice of deficiency shall specify the total amount of privilege license fee due; the section of this article upon which the privilege license fee is based; the

amount of privilege license fee paid; any interest due; the balance owed; the manner and time period in which the person may respond to the notice of the deficiency; and the consequences of failing to respond as specified.
(Ord. No. 95-25, 3-27-95)

Sec. 32-87. Request for a 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.
(Ord. No. 95-25, 3-27-95)

Sec. 32-88. Conference held.

If the taxpayer requests a conference, the town shall not proceed to collect the deficiency until hearing the taxpayer's objections and determining that the deficiency should become final.
(Ord. No. 95-25, 3-27-95)

Sec. 32-89. Deficiency to become final.

If the taxpayer fails to request a conference under section 32-87 of this article, the deficiency becomes final and the town shall proceed to collect the deficiency.
(Ord. No. 95-25, 3-27-95)

Sec. 32-90. Collection of deficiency.

(a) The town may use any of the following methods to collect a deficiency:

(1) Criminal prosecution in accordance with section 32-91(a) of this article;

(2) Equitable relief in accordance with section 32-91(b) of this article;

(3) The remedies of levy, sale, attachment, and garnishment in accordance with G.S. 160A-207; or

(4) The remedies of levy and sale of real and personal property of the taxpayer within the town in accordance with the provisions of G.S. 105-109.

(b) Any person who commences or continues to conduct a business taxed under this article without payment of the privilege license fee is liable for the additional tax of five percent every 30 days as imposed by G.S. 105-109.
(Ord. No. 95-25, 3-27-95)

Sec. 32-91. Enforcement of article.

(a) *Criminal remedies.* Conducting business within this town without having paid the privilege license fee imposed by this article, or without valid license issued in accordance with this article, or without posting a license in compliance with section 32-85 of this article is a misdemeanor, punishable as provided in G.S. 105-109. Each day that a person conducts business in violation of this article 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 privilege license fee imposed under this article.

(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 town may seek an injunction against any person who conducts a business in violation of this article.
(Ord. No. 95-25, 3-27-95)

Chapter 33

RESERVED

Chapter 34

OFFENSES

Sec. 34-1. Consumption of alcoholic beverages in public prohibited.
Sec. 34-2. Discharging firearms within corporate limits prohibited.

Sec. 34-1. Consumption of alcoholic beverages in public prohibited.

It shall be unlawful for any person to consume or serve any alcoholic beverages of any kind on the public streets, boulevards, alleys or public buildings of the town.
(Ord. of 8-7-79, § 3-4)

Sec. 34-2. Discharging firearms within corporate limits prohibited.

(a) It shall be unlawful for any individual to discharge a firearm within the corporate limits of the town.

(b) Violation of this section shall constitute a misdemeanor punishable by a fine not to exceed $500.00 or imprisonment for not longer than 30 days.
(Ord. No. 00-12, §§ 2, 4, 3-13-00)

Cross References: Hunting wildlife within corporate limits prohibited, § 6-11.

Chapters 35--37

RESERVED

Chapter 38

PARKS AND RECREATION*

* **State Law References:** Parks and recreation generally, G.S. 160A-350 et seq.

Article I. In General
Sec. 38-1. Heavy trucks, tractor-trailers prohibited at facilities.
Secs. 38-2--38-40. Reserved.

Article II. Parks and Recreation Advisory Committee
Sec. 38-41. Creation; appointment of members; residency.
Sec. 38-42. Length of appointment; terms.
Sec. 38-43. Compensation.
Sec. 38-44. Officers.
Sec. 38-45. Officers' duties.
Sec. 38-46. Meetings.
Sec. 38-47. Attendance.
Sec. 38-48. Powers and duties.

ARTICLE I.

IN GENERAL

Sec. 38-1. Heavy trucks, tractor-trailers prohibited at facilities.

(a) It shall be unlawful for any truck 10,000 pounds gross vehicle weight or greater, or any tractor-trailer to enter upon, use, park, stop or stand on any of the parks and recreation facilities of the town.

(b) Violation of this section shall subject the offender to a civil penalty in the amount of $25.00. (Ord. No. 91-18, §§ 1, 2, 4-22-91)

Cross References: Traffic and vehicles, ch. 58.

Secs. 38-2--38-40. Reserved.

ARTICLE II.

PARKS AND RECREATION ADVISORY COMMITTEE*

* **Cross References:** Boards, commissions and committees, § 2-81 et seq.
State Law References: Municipal authority to create parks and recreation commission, G.S. 160A-354.

Sec. 38-41. Creation; appointment of members; residency.

There is hereby created the town parks and recreation advisory committee composed of five regular members and an alternate member, each of whom must reside within the town or within the town's

extraterritorial jurisdiction. Each member of the committee shall be appointed by the board of commissioners. The alternate member of the committee shall have the same duties and privileges of a regular member of the committee, except that the alternate member may vote upon any matter before the committee only in the absence of at least one regular member of the committee.
(Ord. No. 90-51, § 1, 9-24-90; Ord. No. 96-18, § 1, 4-9-96)

Sec. 38-42. Length of appointment; terms.

Terms of the original members of the parks and recreation advisory committee shall be staggered. Thereafter, all members shall be appointed to serve for two-year terms. A member may serve no more than two consecutive terms.
(Ord. No. 90-51, § 2, 9-24-90)

Sec. 38-43. Compensation.

Members of the parks and recreation advisory committee shall serve without monetary compensation. Members shall be reimbursed for travel and subsistence to professional recreation meetings, conferences and workshops, with such reimbursement being made in compliance with the general policies of the town, as long as any such travel or subsistence is approved in advance by the town manager.
(Ord. No. 90-51, § 6, 9-24-90)

Sec. 38-44. Officers.

There shall be a chairman and vice-chairman of the parks and recreation advisory committee. An annual election of the chairman and vice-chairman shall be held by the committee members and shall occur at the regular monthly meeting in January. Officers shall serve for one year from election, with eligibility for reelection. If an officer's appointment to the committee is terminated, a replacement to the office shall be elected by the committee, from its membership, at the meeting following the termination.
(Ord. No. 90-51, § 7, 9-24-90)

Sec. 38-45. Officers' duties.

(a) The parks and recreation advisory committee chairman shall preside at all meetings and sign all documents relative to action taken by the committee.

(b) When the chairman is absent, the vice-chairman shall perform the duties of the chairman. When both the chairman and vice-chairman are absent, a temporary chairman shall be selected by those members who are present.

(c) The recreation director shall serve as secretary to the committee. The secretary shall mail to all members copies of official reports and the official minutes of all regular and special meetings, prior to the next scheduled meeting.
(Ord. No. 90-51, § 8, 9-24-90)

Sec. 38-46. Meetings.

The parks and recreation advisory committee meetings shall be held on a monthly basis unless determined otherwise by the committee. The chairman or in his absence, the vice-chairman, may call a special meeting of the committee at any time. Special meetings may also be scheduled upon request of at least two committee members. A quorum of three members of the committee shall be in attendance before action can be taken.
(Ord. No. 90-51, § 4, 9-24-90)

Sec. 38-47. Attendance.

An appointed member who misses more than three consecutive regular meetings loses his status as a member of the parks and recreation advisory committee until reappointed or replaced by the board of commissioners. Absences due to sickness, death or other emergencies of like nature shall be regarded as approved absences and shall not affect the member's status on the committee. However, in the event of a long illness, or other such cause for prolonged absence, the member may be replaced.
(Ord. No. 90-51, § 5, 9-24-90)

Sec. 38-48. Powers and duties.

(a) The parks and recreation advisory committee shall serve as the advisory body for the department of recreation and the board of commissioners. The committee shall suggest policies to the recreation department, the recreation director, and the board of commissioners, within its powers and responsibilities as stated in this article. The committee shall serve as a liaison between the recreation department, the recreation director, the board of commissioners, and the citizens of the community. The committee shall consult with and advise the department, the director and the board in matters affecting recreation policies, programs, personnel, finances and the acquisition and disposal of lands and properties related to the total community recreation program, and to its long-range, projected program for recreation.

(b) The committee shall assume duties for recreation purposes as follows:

(1) Make recommendations for the establishment of a system of supervised recreation for the town.

(2) Recommend setting apart for use as parks, playgrounds, recreation centers, water areas or other recreation areas and structures, any lands or buildings owned by or leased to the town with approval by the town board; suggest improvements of the lands and for the construction, equipping and staffing of the buildings and structures as necessary to the recreation director within those funds allocated to the department.

(3) Advise in the acquisition of lands and structures through gifts, purchase, lease or loan.

(4) Advise in the acceptance by the town of any grant, gift, bequest, or donation of any personal or real property offered or made available for recreational purposes and which is judged to be of present or possible future use for recreation. Any gift, bequest of money or other property, grant or devise of real property or personal property so acquired shall be held by the town, used, and finally disposed of in accordance with the terms under which the grant, gift or devise is made and accepted.

(5) Advise in the construction, equipping, operation and maintenance of parks, playgrounds, recreation centers and all buildings and structures necessary or useful to department function, and advise in regard to other recreation facilities which are owned or controlled by the town or leased or loaned to the town.

(Ord. No. 90-51, § 3, 9-24-90)

Chapters 39--41

RESERVED

Chapter 42

PERSONNEL*

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* **Cross References:** Officers and employers, § 2-61 et seq.

State Law References: Authority to adopt personnel rules and regulations for municipal employees, G.S. 126-9; authority to establish personnel rules, G.S. 160A-164; authority to establish a personnel board, G.S. 160A-165.

Article I. In General

Sec. 42-1. Firearms policy.
Secs. 42-2--42-35. Reserved.

Article II. Personnel Policies and Procedures

Sec. 42-36. Personnel system generally.
Sec. 42-37. Recruitment and employment.
Sec. 42-38. Conditions of employment.
Sec. 42-39. Leaves of absence.
Sec. 42-40. Separation, disciplinary action and reinstatement.
Sec. 42-41. Grievance policy.
Sec. 42-42. Implementation of policy.

ARTICLE I.

IN GENERAL

Sec. 42-1. Firearms policy.

No town official or employee may carry a firearm of any kind, whether concealed or otherwise, while on town property, including town vehicles. This policy shall not apply to sworn law enforcement personnel of the town.
(Ord. No. 96-12, § 2, 3-11-96)

Secs. 42-2--42-35. Reserved.

ARTICLE II.

PERSONNEL POLICIES AND PROCEDURES

Sec. 42-36. Personnel system generally.

(a) *Purpose.* The purpose of the policy set out in this article is to establish a personnel system which will serve as a guide to administrative action concerning various personnel procedures and transactions.

(b) *Coverage.* This article shall cover all full-time regular and probationary employees except as specifically exempted. The town manager, town attorney, town clerk, members of the town board and of advisory boards and commissions will be exempted, except in sections where specifically included. Part-time regular and temporary employees will be covered by some areas.

(c) *Employee definitions.*

(1) *Full-time employee* means an employee, either regular or temporary, who is regularly scheduled to work 40 or more hours per workweek.

(2) *Part-time employee* means an employee, either regular or temporary, who is regularly scheduled to work less than 40 hours per workweek.

(3) *Probationary employee* means a person appointed to a budgeted position who has not yet completed a probationary period.

(4) *Regular employee* means an employee who has successfully completed the prescribed probationary periods shall be considered a regular employee. Reference to "regular" employees or permanent positions should not be construed as a contract or right to perpetual funding or employment.

(5) *Temporary employee* means a person appointed to serve in a position for a defined time period, usually less than six months.

(d) *Merit principle.* All appointments, promotions and other personnel transactions shall be made solely on the basis of merit and fitness.
(Ord. No. 89-5A, § 1(I), 2-13-89; Ord. No. 94-61, § 1(I), 9-12-94)

Sec. 42-37. Recruitment and employment.

(a) *Statement of equal employment opportunity policy.* It is the policy of the town to foster, maintain and promote equal employment opportunity. The town shall select employees on the basis of applicants' qualifications and without regard to age, sex, race, color, creed, religion, political affiliation or national origin, except where specific age, sex or physical requirements constitute a bona fide occupational qualification necessary for job performance. Applicants with physical handicaps shall be given equal consideration with applicants for positions in which their physical handicaps do not represent an unreasonable barrier to satisfactory performance of duties.

(b) *Implementation of equal employment opportunity policy.* All personnel responsible for recruitment and employment shall implement the personnel policy through procedures that will ensure equal employment opportunity based on reasonable performance-related job requirements. Notices with regard to equal employment matters shall be posted in conspicuous places on town government premises in places where notices are customarily posted.

(c) *Recruitment.* The town shall publicize opportunities for employment with the town in a local newspaper including salary ranges and, when needed, employment qualifications for positions to be filled. Individuals shall be recruited from a geographic area as wide as is necessary to ensure obtaining well-qualified candidates for the various types of positions.

(d) *Qualification standards.* Employees shall meet the employment standards established for the

position and such reasonable minimum standards as to character, aptitude, ability to meet the public, and physical condition as may be established by the town manager or board as applicable.

(e) *Selection.* The appropriate personnel shall make investigations and conduct examinations as deemed appropriate to assess fairly the aptitude, education and experience, knowledge and skills, character, physical fitness and other qualifications required for positions in the service of the town. All selection devices administered by the town or by persons or agencies for the town shall be valid measures for job performances.

(f) *Appointments.* The town board shall appoint the town manager, town attorney and town clerk. Other town personnel shall be employed by the town manager.

(g) *Probationary period.* An employee appointed to a regular position shall serve a probationary period of six months except that law enforcement officers shall serve a 12-month probationary period. An employee may be dismissed during the probationary period at any time by the town manager. Dismissal criteria are outlined in this article. Before completion of the probationary period, the employee's supervisor shall indicate in writing:

(1) That the employee's supervisor has discussed the new employee's progress (accomplishments, strengths, weaknesses) with the new employee.

(2) Whether or not the new employee is performing satisfactory work.

(3) Whether the probationary period should be extended.

(4) Whether the employee should be retained in the present position or should be released, transferred or demoted.

If retained and the probationary period is not extended, the employee will be considered a regular employee.

(h) *Promotions.* The town manager shall anticipate personnel turnover and shall make appropriate plans for recruiting replacements. Present employees should be trained for greater responsibility and, if qualified, should be considered for in-house promotion to fill vacancies where feasible and appropriate.

(i) *Tests.* Knowledge and skill tests may be required for certain jobs. In addition, some positions may require medical or psychological tests.

(j) *Demotion or dismissal.* An employee rated as unsatisfactory shall be notified, in writing, how his/her work is deficient and what he/she must do if his/her work is to be satisfactory. If the employee's work continues to be below standard, the town manager or department head may demote, suspend or dismiss the employee. Examples of unsatisfactory job performance include, but are not limited to:

(1) Inability to adequately perform critical tasks.

(2) Physical or mental incapacity to perform duties, as certified by a physician.

(3) Inability to meet work standards over a period of time.

(4) Demonstrated inefficiency, negligence or incompetence in the performance of duties.

(5) Careless, negligent or improper use of town property or equipment.

(6) Careless treatment of public or other employees.

(7) Absence without approved leave; habitual improper use of leave privileges.

(8) Insubordination.

(9) Reporting to work under the influence of drugs or alcohol, or partaking of such while on duty. Prescribed medications may be taken within the limits set by a physician as long as medically necessary.

(k) *Conduct.* In the event of serious or detrimental personal conduct, an employee may be demoted, suspended or dismissed without prior notice. Examples of such conduct include, but are not limited to, the following:

(1) Fraud.

(2) Conviction of a felony or the entry of a plea of nolo contendere thereto.

(3) Falsification of records for personal profit or to grant special privileges.

(4) Willful misuse of town funds.

(5) Willful and wanton damage or destruction of property.

(6) Willful and wanton acts that endanger the lives and property of others.

(7) Possession of unauthorized firearms or other lethal weapons on the job.

(8) Brutality in the performance of duties.

(9) Engaging in incompatible employment or servicing a conflicting interest.

(10) Acceptance of gifts in exchange for favors or influence.

(11) Engaging in political activity prohibited by this article.

(Ord. No. 89-5A, § 1(II), 2-13-89; Ord. No. 90-17, §§ 1--4, 2-12-90; Ord. No. 94-61, § 1(II), 9-12-94)

Sec. 42-38. Conditions of employment.

(a) *Workweek.* Except for police department personnel, full-time employees normally work five eight-hour days per workweek. Employees in administrative, professional or managerial positions shall work

the number of hours necessary to ensure the satisfactory performance of their duties. When the activities of a particular department require some other schedule to meet work needs, the town manager may authorize a deviation from the normal workweek as set forth above.

(b) *Gifts and favors.* No official or employee shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm or corporation which is to his/her knowledge is interested, directly or indirectly, in any manner whatsoever in business dealings with the town; nor shall any such official or employee accept any gift, favor or thing of value that may tend to influence one in the discharge of one's duties or grant in the discharge of his duties any improper favor, service or thing of value.

(c) *Political activity.* Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the constitution and the laws of the state, and in accordance with the constitution and laws of the United States of America. However, no employee shall:

(1) Engage in any political or partisan activity while on duty.

(2) Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.

(3) Be required as a duty of employment or as a condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes.

(4) Coerce or compel contributions for political or partisan purposes by another employee of the town.

(5) Use any supplies or equipment of the town for political or partisan purposes.

(d) *Other employment.* The work of the town will take precedence over other occupational interests of full-time regular or probationary employees. All outside employment for salaries, wages, or commission and all self-employment must be approved by the employee's department head or the town manager. The department head or the town manager will review such employment for possible conflict of interest. Conflicting outside employment will be grounds for disciplinary action up to and including dismissal.

(e) *Employment of relatives.* Members of an immediate family shall not be employed at the same time if such employment would result in an employee directly or indirectly supervising a member of the immediate family. This policy shall not be retroactive, and no action will be taken concerning those matters of the same family employed in conflict with above prior to the adoption of this policy. Immediate family is defined for the purpose of this section as spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named.
(Ord. No. 89-5A, § 1(III), 2-13-89; Ord. No. 94-61, § 1(III), 9-12-94)

Sec. 42-39. Leaves of absence.

(a) *Holidays.* The following days, and such other days as the board of commissioners may designate, are holidays with pay for all full-time regular and probationary employees of the town:

(1) New Year's Day.

(2) Martin Luther King Day.

(3) Good Friday.

(4) Memorial Day.

(5) Independence Day.

(6) Labor Day.

(7) Veteran's Day.

(8) Thanksgiving Day/day after.

(9) Christmas Day.

When Christmas Day falls on:	The town observes:
Sunday	Friday and Monday
Monday	Monday and Tuesday
Tuesday	Monday, Tuesday and Wednesday
Wednesday	Tuesday, Wednesday and Thursday
Thursday	Wednesday, Thursday and Friday
Friday	Thursday and Friday
Saturday	Friday and Monday

When a holiday other than Christmas falls on a Saturday or Sunday, Monday shall be observed as a holiday. Employees required to work on an observed holiday shall receive compensatory time off. Holidays observed by the town shall not be counted as vacation leave.

(b) *Vacation leave.* Each full-time regular or probationary employee shall earn vacation leave at the following rates:

	Years of aggregate service	Hours earned per month	Hours earned per year	Days earned per year
(1)	Less than 2 years	6 hrs./40 min.	80	10
(2)	2 years to less than 5	8	96	12
(3)	5 years to less than 10	10	120	15
(4)	10 years or more	12	144	18

Vacation leave may accumulate to a maximum of 30 days. When the maximum has been accumulated, no additional vacation leave shall be earned until some of the accrued time is taken. Employees will accrue vacation leave during their probation period, but may not use this leave until the probation period is completed. In the event employment is terminated during probation, they will not be paid for the accumulated leave. Law enforcement officers serving a year-long probation period may use accumulated leave after six months. Employees are required to give a resignation notice of two weeks. If less than two weeks' notice is given, accumulated vacation leave will not be paid. Vacation leave may be taken as earned by an employee, subject to the approval of the employee's supervisor. Appropriate notice will be given by an employee for vacation leave. Vacation leave may be denied subject to work schedule.

(c) *Sick leave.*

(1) Sick leave with pay is not a right which an employee may demand but a privilege granted by the town for the benefit of an employee when sick.

(2) Sick leave shall be granted to a full-time regular or probationary employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, when continuing to work after exposure to a contagious disease might jeopardize the health of others, or for the care of family members who are ill. Sick leave may also be used for death in the employee's immediate family or of a close personal friend. Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or not later than two hours after the beginning of a scheduled workday. Failure to do so may result in disciplinary action.

(3) Each full-time regular or probationary employee working the basic workweek shall earn sick leave computed at the following rate:

	Hours earned per month	Hours earned per year	Days earned per year
Regular employees	8	96	12
Sworn law enforcement employees	12	144	12

Sick leave may be accumulated up to an unlimited number of days.

(4) The town manager may require a physician's certificate concerning the nature of the illness and the employee's physical capacity to resume duties for each occasion on which an employee uses sick leave to ensure that there is no abuse of sick leave privileges. Claiming sick leave under false pretense is considered a flagrant violation of the personnel policy and is cause for disciplinary action.

(d) *Leave without pay.* A town employee may be granted a leave of absence without pay for up to six months by the town manager, and any length subject to approval by the town board for reasons of personal or family illness or completion of education or special work which will permit the town to profit by the experience gained or the work performed. Failure to report at the expiration of a leave of absence unless an extension has been granted shall be considered a resignation.

(e) *Worker's compensation.* Town employees are protected by the North Carolina Worker's Compensation Act in the event of a job-related illness or injury. Payments are made for medical expenses and partial payment is made of salary for time lost from the job in accordance with provisions of the act. To protect one's interest under the law, the employee has the responsibility and must promptly report all injuries resulting from on-the-job accidents in accordance with the North Carolina Worker's Compensation Act. Such reports shall be made on N.C. Industrial Commission Form No. 19. The finance department shall assist in completing appropriate accident reports.

(f) *Maternity leave.* The town is fully committed to the Family and Medical Leave Act of 1993.

(g) *Military leave.* A full-time regular or probationary employee who is a member of an Armed Forces Reserve Organization or the National Guard shall be granted up to two calendar weeks of leave per calendar year for required military training. While on military leave, benefits will accrue as though present for duty. The leave is not charged as annual leave. If his/her military compensation is less than his/her town compensation, the town will pay the employee the difference.

(h) *Civil leave.* A full-time regular or probationary employee called for jury duty or as a court witness for the federal or state government or a subdivision thereof, by subpoenas shall be entitled to leave with pay for such duty in addition to keeping fees received for such duty. Law enforcement officers may not receive or keep any witness fees for appearing in a criminal court in connection with their official duties.
(Ord. No. 89-5A, § 1(IV), 2-13-89; Ord. No. 90-16A, 3-12-90; Ord. No. 92-63B, §§ 1, 2, 8-10-92; Ord. No. 94-61, § 1(IV), 9-12-94)

Sec. 42-40. Separation, disciplinary action and reinstatement.

It is the general policy of the town that employment by the town is "at will" employment. In other words, town employment is continued at the will of and may be terminated at the will of the employee or the town, respectively, without reason or cause given by either party. Nothing in this personnel policy is intended to restrict this general principle.

(1) *Resignation.* A minimum of two weeks' notice is expected of all resigning personnel. Such notice shall be given to the town manager. As noted in section 42-39, if less than two weeks' notice is given, accumulated vacation leave may not be paid.

(2) *Disability.* An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment. Action may be initiated by the employee or the town, but in all cases it shall be supported by medical evidence as certified by a competent physician. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the town's service for which the employee may be suited.

(3) *Disciplinary action.* An employee may be suspended, demoted or dismissed because of failure in performance of duties or failure in personal conduct. The employee shall be provided with a written notice of the suspension, demotion or dismissal, which shall include the effective date thereof.

(4) *Suspension.* Suspension is defined as an action taken whereby pay is discontinued while an employee is temporarily relieved of all duties and responsibilities. There may be a paid suspension during which an employee is removed from duty during an investigation.

(5) *Dismissal.* Dismissal is defined as an action approved by or taken by the town manager whereby the employee is relieved of all duties and responsibilities and discharged from the employment of the town.

(6) *Reinstatement.* Reinstatement is defined as an action taken by the town whereby a former employee, who had been laid off or otherwise left the service in good standing, is reemployed. All reinstatements are upon approval by the town manager.

(Ord. No. 89-5A, § 1(V), 2-13-89; Ord. No. 94-61, § 1(V), 9-12-94)

Sec. 42-41. Grievance policy.

(a) It is the policy of the town to provide a just procedure for the presentation, adjustment and disposition of employee grievances. The purpose of this section is to implement this policy and to ensure all employees that their complaints and grievances will be answered and determined or decided fairly, quickly, equitably and without refusal or threat.

(b) The term "grievance" is defined as any matter of employee concern or dissatisfaction within the control of the town. Examples of problems for which grievances may be filed include the following:

(1) Safety or health matters.

(2) Unsatisfactory physical facilities, surroundings, materials or equipment.

(3) Alleged unfair or discriminatory disciplinary or supervisory practices.

(4) Alleged unjust treatment by fellow workers.

(5) Unreasonable work quotas.

(6) Any other grievance related to conditions of employment.

(c) Grievance procedure.

(1) Employees and supervisors are encouraged to attempt to resolve problems by discussing them. When discussions do not resolve the problem to the employee's satisfaction, the employee shall first present his grievance, in writing, to his supervisor within five days of the incident or knowledge of the incident. The supervisor shall respond to the aggrieved employee within two complete working days after receipt of the grievance; the supervisor's decision or determination shall be in writing. The employee shall sign a copy of the decision or determination to acknowledge receipt and the date of the response. The supervisor should and is encouraged to consult with any town employee or officer he may deem necessary to reach a correct, impartial, fair and equitable determination or decision concerning the grievance.

(2) If the grievance is not resolved to the satisfaction of the employee by the immediate supervisor, the employee may appeal by contacting his department head within four complete working days after receipt of the determination or decision referred to in subsection (c)(1) of this section. Within two complete working days, the department head shall advise, in writing, the employee of his decision or determination; the employee shall acknowledge receipt of the response by signing and dating the response.

(3) If the employee is not satisfied with the decision or determination of the department head, the employee shall appeal by giving notice to the town manager within four complete working days after receipt of the department head's decision or determination. The town manager shall make a decision or determination within five complete working days and notify the employee in writing. The employee shall sign and date a copy of the town manager's response to acknowledge receipt thereof.

(4) The final and conclusive decision with respect to an employee's grievance shall rest with the town manager.

(d) Conflict. No decision or determination of any grievance shall in any way conflict with any town policies, resolutions, ordinances or statutes applicable thereto.

(e) Representation. In the presentation of any grievance under this directive, any employee may be represented by any person of his choice, including another town employee.
(Ord. No. 89-5A, § 1(VI), 2-13-89; Ord. No. 94-61, § 1(VI), 9-12-94)

Sec. 42-42. Implementation of policy.

An employee violating any of the provisions of this article shall be subject to suspension and/or dismissal, in addition to any civil or criminal penalty which may be imposed for the violation of the same.
(Ord. No. 89-5A, § 1(VII), 2-13-89; Ord. No. 94-61, § 1(VII), 9-12-94)

Chapters 43--45

RESERVED

Chapter 46

PLANNING AND DEVELOPMENT*

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* **Cross References:** Extraterritorial planning and zoning jurisdiction, § 2-1; buildings and building regulations, ch. 10; streets, sidewalks and other public places, ch. 54.

State Law References: Planning and regulation of development, G.S. 160A-360 et seq.

Sec. 46-1. Zoning and subdivision regulations.

Sec. 46-1. Zoning and subdivision regulations.

The zoning and subdivision regulations of the town are not printed herein but are on file and available in the office of the town clerk.

Cross References: Any zoning or subdivision ordinance saved from repeal, § 1-9(10).

Chapters 47--49

RESERVED

Chapter 50

SOLID WASTE*

* **Cross References:** Nuisances, § 18-41 et seq.

State Law References: Littering, G.S. 14-399; nuisances and public health generally, G.S. 130A-1 et seq.; authority to prohibit or regulate conditions detrimental to health, safety or welfare of citizens, G.S. 130A-19, 153A-140, 160A-174(a), 160A-193; solid waste management generally, G.S. 130A-290 et seq.; authority to regulate disposal of garbage and trash, G.S. 160A-303.1.

Sec. 50-1. Construction debris.

Sec. 50-1. Construction debris.

(a) All construction refuse, lumber and debris shall be removed or caused to be removed by the property owner within ten days from the completion of any construction activity.

(b) If any person while transporting or hauling any garbage, trash, rubbish or excavation material from a construction site shall throw, drop or deposit or allow to be thrown, dropped or deposited any such material from the transporting vehicle, such person shall promptly clean up and remove the rubbish or materials in a manner satisfactory to the town manager. If such person fails to do so, the town may clean up and remove the rubbish and material and collect the cost of such cleanup and removal from the person violating this section.

(c) Violation of this section shall subject the offender to a civil penalty in the amount of $50.00 per violation. Each day's continuing violation shall be a separate and distinct offense. The penalty shall be due and payable within seven days after the violator has been notified by the town of the penalty. Payment of any such civil penalty shall be in addition to any amount paid to the town for the cost of trash cleanup or removal.
(Ord. of 1-12-87, §§ 1--3)

Cross References: Buildings and building regulations, ch. 10.

Chapters 51--53

RESERVED

Chapter 54

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

* **Cross References:** Buildings and building regulations, ch. 10; storm drainage, § 18-201 et seq.; infrastructure inspection fees, § 62-261 et seq.; planning and development, ch. 46; traffic and vehicles, ch. 58.

State Law References: Responsibility for streets inside municipalities, G.S. 136-66.1; authority of municipalities regarding streets, G.S. 136-66.4; public road defined, G.S. 153A-239; authority and control of streets, G.S. 160A-296.

Article I. In General

Secs. 54-1--54-35. Reserved.

Article II. Parades, Picket Lines and Group Demonstrations

Sec. 54-36. Definitions.
Sec. 54-37. Penalty.
Sec. 54-38. Permit--Required.
Sec. 54-39. Same--Application.
Sec. 54-40. Same--Fee.
Sec. 54-41. Standards for issuance or revocation of permit.
Sec. 54-42. Notice of action on permit application.
Sec. 54-43. Alternative permit.
Sec. 54-44. Duties of permittee.
Sec. 54-45. Duty of parade chairperson.
Sec. 54-46. Conduct during parade.
Sec. 54-47. Interference prohibited.
Sec. 54-48. Exceptions.
Secs. 54-49--54-70. Reserved.

Article III. Street Address Numbering System

Sec. 54-71. Definitions.
Sec. 54-72. Purpose and intent.
Sec. 54-73. Administration and application.
Sec. 54-74. Display of street address numbers.
Sec. 54-75. Enforcement.

ARTICLE I.

IN GENERAL

Secs. 54-1--54-35. Reserved.

ARTICLE II.

PARADES, PICKET LINES AND GROUP DEMONSTRATIONS*

* **Cross References:** Driving through funeral processions prohibited, § 58-34.

State Law References: Right of assembly and petition, N.C. Const., art. I, § 12; picketing or parading, G.S. 14-225.1; powers of local authorities regarding processions and assemblages, G.S. 20-169; authority of local government to regulate congregations and assemblies, G.S. 130A-258.

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Sec. 54-36. Definitions.

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:

Block means that portion of any street lying between its intersections with other streets.

Group demonstration means any assembly together or concert of action between or among two or more persons for the purpose of protesting any matter, or of making known any position or promotion of such persons, or of or on behalf of any organization or class of persons, or for the purpose of attracting attention to such assembly.

Parade means any parade, march, ceremony, show, exhibition or procession of any kind in or upon the public streets, sidewalks, alleys, parks or other public grounds or places.

Picket line means any two or more persons formed together for the purpose of making known any position or promotion of such persons, or of or on behalf of any organization or class of persons.
(Ord. No. 90-42, § 1, 7-23-90)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 54-37. Penalty.

The violation of any provision of this article shall constitute a misdemeanor punishable in accordance with section 1-6.
(Ord. No. 90-42, § 14, 7-23-90)

Sec. 54-38. Permit--Required.

It shall be unlawful for any person to organize, conduct or participate in any parade, picket line or group demonstration in or upon any street, sidewalk, alley or other public place within the town unless a permit therefor has been issued by the town in accordance with the provisions of this article.
(Ord. No. 90-42, § 2, 7-23-90)

Sec. 54-39. Same--Application.

A person seeking the issuance of a parade permit shall file a written application with the police chief of the town not less than 72 hours in advance of such parade, picket line or group demonstration. The chief or his designee is authorized to issue permits as required in the preceding section. Where good cause is shown, the chief or his designee shall have the authority to consider any application which is filed in less than the prescribed filing period. The application shall be signed by the applicant and notarized and shall include, but not be limited to, the following:

(1) The name, address and telephone number of the person seeking to conduct the parade.

(2) If the parade is proposed to be conducted for, on behalf of or by an organization, the name,

address and telephone number of the headquarters of the organization and of the authorized and responsible head of such organization.

(3) The name, address and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct.

(4) The date when the parade is to be conducted.

(5) The route to be traveled, the starting point and the termination point.

(6) The approximate number of persons, animals and vehicles participating in the parade; the type of animals and a description of the vehicles; and whether or not any minors under the age of 18 years shall participate.

(7) The hours when the parade will start and terminate.

(8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.

(9) The location by streets of any assembly areas for the parade.

(10) The time when units of the parade will begin to assemble at any such assembly area or areas.

(11) If the parade is to be sponsored by, or on behalf of, any person other than the applicant, the applicant for such permit shall file with the application a written authorization from the person proposing to hold the parade authorizing the applicant to apply for the permit on his behalf.

State Law References: Chief of police, G.S. 160A-281; powers and duties of police officers, G.S. 160A-285, 160A-286; age of minors, G.S. 48A-2; obstructing highways, roads and streets, G.S. 136-90.

Sec. 54-40. Same--Fee.

A nonrefundable fee of $25.00 shall be paid by the person applying for the parade permit at the time of application to cover expenses incidental to processing the application.
(Ord. No. 90-42, § 4, 7-23-90)

Sec. 54-41. Standards for issuance or revocation of permit.

The police chief shall issue a permit for a proposed parade unless he finds that:

(1) The safe conduct of the parade will substantially interrupt the safe and orderly movement of other traffic contiguous to its route.

(2) The conduct of the parade will require the diversion of so great a number of law enforcement personnel of the town to properly police the line of movement of the parade and of contiguous areas that adequate police protection cannot be provided to the remainder of the town.

(3) The conduct of the parade will require the diversion of so great a number of ambulances and

rescue units that adequate ambulance and rescue service to portions of the town and contiguous areas not occupied by the parade will be impeded.

(4) The concentration of persons, animals and vehicles at assembly points of the parade will substantially interfere with adequate police and fire protection of, or ambulance and rescue service to, areas contiguous to such assembly areas.

(5) The parade is to be held for the primary purpose of advertising a product, goods or an event and is designed to be held primarily for private profit or gain.

(6) The conduct of the parade will interfere with the movement of firefighting equipment to such an extent that adequate fire protection cannot be provided to the town.

Upon issuance of a parade permit, a copy shall be sent to the town manager and the fire chief. The police chief shall have the authority to revoke a parade permit issued under this article upon violation of the standards for issuance as set forth in this section.
(Ord. No. 90-42, § 6, 7-23-90)

Sec. 54-42. Notice of action on permit application.

(a) The police chief shall act upon the permit application under this article as expeditiously as reasonably possible, and within 48 hours shall notify the applicant in writing of his decision. The notice shall also inform the applicant of the appeal procedure available under subsection (b) of this section and the conference available under section 54-43 for an alternative permit.

(b) Any person aggrieved shall have the right to appeal the denial of a parade permit to the board of commissioners, and the board shall hear the appeal at its first regularly scheduled meeting after receipt of the appeal.
(Ord. No. 90-42, § 7, 7-23-90)

State Law References: Refusal of weapons permits, G.S. 14-404, 14-409.3; chief of police, G.S. 160A-281; powers and duties of police officers, G.S. 160A-285, 160A-286.

Sec. 54-43. Alternative permit.

If the police chief denies an application for a parade permit based upon one or more of the findings prescribed in section 54-42, the chief or his designee shall, upon the request of the applicant, confer with the applicant for the purpose of trying to negotiate modifications to the planned parade that will eliminate the objections found under section 54-42. The police chief is authorized to grant an alternative permit specifying a date, time or route different from that contained in the application. The alternative permit is valid only upon the filing by the applicant with the police chief or his designee of a written acceptance of the alternative permit. An alternative permit is void if not accepted in the manner prescribed in this section. An alternative permit shall conform to the requirements of and shall have the effect of a parade permit under this article.
(Ord. No. 90-42, § 8, 7-23-90)

Sec. 54-44. Duties of permittee.

A permittee under this article shall comply with all permit directions and conditions and with applicable

laws and ordinances.
(Ord. No. 90-42, § 9, 7-23-90)

Sec. 54-45. Duty of parade chairperson.

The parade chairperson or other person leading the parade shall carry the parade permit upon his person during the conduct of the parade. The parade chairperson shall be physically present at the parade and shall be responsible for compliance with all provisions of the parade permit.
(Ord. No. 90-42, § 10, 7-23-90)

State Law References: Authority of local government to regulate congregations and assemblies, G.S. 130A-258.

Sec. 54-46. Conduct during parade.

(a) *Interference.* No person shall unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in the parade.

(b) *Driving through parades.* No driver of any vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(c) *Parking along parade route.* The police chief shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or highway or part thereof constituting a part of the route of a parade. The police chief shall cause signs to be posted to this effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

(d) *Dangerous weapons.* No dangerous weapon of any kind may be possessed either exposed or concealed by any participant in the parade, or any person affiliated with and present at the parade, or any person upon any street, sidewalk or other public place within 500 feet of the parade.

(e) *Handcarried signs.* No sign or poster carried by hand in the parade shall be of greater density than eight-ply cardboard. No support for such sign or poster shall be of a metallic substance or thicker than one by three-fourths inches.

(f) *Parade route.* Every parade shall follow the route designated and approved by the police chief and described on the parade permit.

(g) *Exceptions.* This section shall not apply to the following persons while acting lawfully and within the scope of their duties and authority:

(1) Law enforcement officers.

(2) Officers and soldiers of the armed forces, militia and National Guard.
(Ord. No. 90-42, § 11, 7-23-90)

State Law References: Picketing or parading, G.S. 14-225.1; weapons at parades prohibited, G.S. 14-277.2; authority of municipalities to regulate use of highways by processions or assemblages, G.S. 20-169; authority of municipalities to regulate streets, G.S. 136-66.4; obstructing highways and roads, G.S. 136-90; chief of police, G.S. 160A-281; powers and duties of police officers, G.S. 160A-285, 160A-286; authority of municipalities to regulate parking, G.S. 160A-301.

Sec. 54-47. Interference prohibited.

No person shall hamper, obstruct, impede or interfere with any parade, picket line or group demonstration being conducted under authority of a permit duly issued by the police chief.
(Ord. No. 90-42, § 12, 7-23-90)

Sec. 54-48. Exceptions.

The provisions of this article shall not apply to:

(1) Funeral processions.

(2) Students going to or from school classes or participating in educational or recreational activity where such activity is under the supervision and direction of proper school authorities.

(3) Any governmental agency acting within the scope of its functions.

(4) Picketing or other orderly processions on the sidewalks that do not violate any other town or state law.

(Ord. No. 90-42, § 13, 7-23-90)

Secs. 54-49--54-70. Reserved.

ARTICLE III.

STREET ADDRESS NUMBERING SYSTEM*

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* **State Law References:** Development of a coordinated street system, G.S. 136-66.2; authority of municipalities regarding streets, G.S. 136-66.4.

Sec. 54-71. Definitions.

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:

Address administrator means the town employee designated to assign street address numbers to properties in the town area.

Building means a totally enclosed structure having a roof supported by columns or walls. For the purpose of this article, each separate and distinct unit within a single structure shall also be considered a separate building.

Driveway/private street means an accessway owned and maintained by private interests leading to a building, use or structure.

Official address number means the street address assigned by the address administrator which uniquely identifies a particular building or lot. This term is synonymous with "street address number."

Public street means a dedicated and accepted public right-of-way for vehicular traffic.
(Ord. No. 91-8, § 2, 2-11-91)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 54-72. Purpose and intent.

The purpose and intent of this article is to provide a uniform system of road addresses for all properties and buildings throughout the town in order to facilitate provision of adequate public safety and emergency response services and to minimize difficulty in locating properties and buildings.
(Ord. No. 91-8, § 1, 2-11-91)

Sec. 54-73. Administration and application.

(a) The town will be responsible for the interpretation and administration of this article, including:

(1) Assigning all numbers for properties and buildings.

(2) Maintaining address records of each property and building.

(3) Changing existing addresses when necessary to achieve sequential house numbering along a road or regularizing an existing numbering scheme.

(4) Designating individual unit addresses within multifamily housing.

(b) This article shall apply within the corporate limits of the town and within the town's accepted extraterritorial jurisdiction.
(Ord. No. 91-8, § 3, 2-11-91)

Sec. 54-74. Display of street address numbers.

Street address numbers shall be clearly displayed as follows so that the location can be identified easily from the street:

(1) The official address number shall be displayed on the front of a building or at the entrance to a building which is most clearly visible from the street during both day and night.

(2) If the official address number is not visible from the public street or private street that serves as the primary access road to the building on which the address number is located, or if the subject building is located more than 75 feet from such access road, the address numbers shall also be displayed at the end of the driveway or easement nearest the road which provides access to the building.

(3) Numerals identifying the address number of a single-family dwelling shall be at least four inches

in height except that numerals displayed on a roadside mailbox shall be at least two inches in height.

(4) Numerals for buildings containing multiple dwelling units shall be at least six inches in height and shall be placed on the side of the building facing the road or on the end of the building nearest the road.

(5) The requirements of subsection (4) above shall not apply if individual units in a multifamily dwelling building meet the requirements of subsection (1) or (2).

(6) Numerals for nonresidential buildings shall be at least six inches in height and meet all other requirements of subsection (4) above.

(7) Numerals shall be displayed in a color that contrasts with the color of the background to which it is affixed.

(8) The address administrator will have the right to authorize and approve alternate methods of displaying street address numbers that are in keeping with the intent of this article when strict adherence to these standards cannot reasonably be met.

(Ord. No. 91-8, § 4, 2-11-91)

Sec. 54-75. Enforcement.

(a) No building permit shall be issued until an official street address number has been assigned for the building lot or unit.

(b) No certificate of occupancy shall be issued until the official street address number is properly displayed.

(c) Owners or occupants of buildings already constructed that do not comply with the provisions of this article will be notified and requested to meet such requirements within 60 days from the date of the notification. A warning notice will be issued after 60 days if the requirements of this article have not been met. If the owner or occupant does not comply with the requirements within 30 days of delivery of a warning notice by certified mail or by hand delivery to the building in violation, enforcement action as set forth in subsection (d) below may be initiated.

(d) Violation of this article is an infraction punishable in accordance with section 1-6. Each day the violation continues after the offending owner or occupant has been notified as set forth in subsection (c) above shall constitute a separate violation of this article.

(Ord. No. 91-8, § 5, 2-11-91)

Chapter 55

RESERVED

Chapter 56

TELECOMMUNICATIONS

Article I. In General

Secs. 56-1--56-35. Reserved.

Article II. Cable Telecommunications

Sec. 56-36. Definitions.
Sec. 56-37. Application fee and application bond.
Sec. 56-38. Term of franchise.
Sec. 56-39. Termination and expiration of franchise.
Sec. 56-40. Transfer of cable telecommunications system.
Sec. 56-41. Franchise and other fees.
Sec. 56-42. Limitations of franchise.
Sec. 56-43. Additional town rights in franchise.
Sec. 56-44. Initial service area.
Sec. 56-45. Emergency alert override system.
Sec. 56-46. Interconnection.
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Sec. 56-48. Channels, new developments and access utilization.
Sec. 56-49. Rights of individuals.
Sec. 56-50. Liability and indemnification.
Sec. 56-51. Filing and communications with regulatory agencies.
Sec. 56-52. Miscellaneous provisions.

ARTICLE I.

IN GENERAL

Secs. 56-1--56-35. Reserved.

ARTICLE II.

CABLE TELECOMMUNICATIONS

Sec. 56-36. Definitions.

For the purposes of this article, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein, when not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, words in the singular number include each of the other genders. The words "shall" and "must" always are mandatory and not merely directory.

Access shall mean any programming or channel designated for use by any other person other than the company.

Basic services shall mean all subscriber services provided by the grantee in one or more service tiers, including the delivery of broadcast signals, access channels and origination channels, covered by the regular

monthly charge paid by all subscribers to a particular service tier, excluding optional services for which a separate charge is made.

Cable telecommunications shall mean cable television and communications.

Cable telecommunications service shall mean the provision of improved television or telecommunications intelligence or entertainment services to the public for compensation or not and distributing the same by wire or fiber cable or other means.

Cable telecommunications system shall mean a system of antennas, cables, fiber optics, wires, lines, towers, wave guides, or other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, originating, amplifying, and distributing any type of signal including, but not limited to, audio, video, and other forms of electronic, digital or electrical signals.

Channel shall mean a 6 MHZ band of frequencies in the electromagnetic spectrum (or any other means of transmission, including but not limited to optical fibers, which is capable of carrying the equivalent signal or signals), and includes uses of all or any portion of such band of frequencies.

Construction completion date shall mean the date, after receiving a request from franchisee, on which the town or its designee issues a certificate of completion to a franchisee. That certificate shall not be unreasonably withheld.

FCC shall mean the Federal Communications Commission.

Franchise shall mean and include any authorization granted by the town in terms of a franchise privilege, permit license or otherwise to construct, or have constructed, operate and maintain a cable telecommunications system. Any such authorization, in whatever term granted, and the fees charted thereunder shall neither supersede nor take the place of any license, license fee or permit authorization which might otherwise be required for the privilege of transacting and carrying on cable telecommunications service under any other town ordinance licensing or regulating business within such areas.

Full cable telecommunications service shall mean all cable telecommunications services.

Grantee or *franchisee* or *company* shall mean the person, firm, or corporation to whom a franchise, as defined herein, is granted by the town board under this article, and the lawful successor, transferee or assignee of said person, firm, or corporation.

Gross revenues shall mean any and all compensation received by grantee or any firm in which grantee has part ownership as a result of the exercise of the franchise granted hereunder excluding any privilege or use taxes. "Gross revenues" include by way of illustration, but are not limited to, regular subscriber service fees, installation fees, disconnect and reconnect fees, pay TV, leased channel revenues, advertising revenues, converter and remote control rental revenues, or any other income from the system.

Initial service area shall mean that geographical area within the incorporated limits of the town as of the date of acceptance of a franchise pursuant to this article.

Person shall mean any person, firm, partnership, association, corporation or organization of any kind.

Service package or *tier of service* shall mean one or more communications channels or services which are offered as a unit by the grantee to subscribers and for which a separately identifiable rate or charge is made.

Street shall mean the surface of and the space above and below any publicly owned or maintained property or right-of-way, street, road, highway, freeway, land, path, alley, court, sidewalk, parkway or drive, now or hereafter existing as such within the town.

Subscriber shall mean any person or entity lawfully receiving any portion of the cable telecommunications service of a grantee pursuant to this article.

Town shall mean the Town of Morrisville or the area within the present and future territorial town limits of the town and such territory outside of the town over which the town has jurisdiction or control by virtue of any law.

Town board shall mean the Town Board of the Town of Morrisville, North Carolina, or its designee.
(Ord. No. 95-64, § I, 8-14-95)

Sec. 56-37. Application fee and application bond.

(a) *Application fee.* Applicants for a franchise hereunder shall pay a nonrefundable "Application Fee" to the Town of Morrisville of $3,000.00, which sum shall be due and payable to the town under submission to the town of an application for a franchise.

(b) The town board shall review the applicants legal, character, financial, technical, and other qualifications and the adequacy and feasibility of its construction arrangements and its compliance with the terms of this article. If the town board finds the application is in compliance with this article and is satisfied with the ability of the applicant to perform and is satisfied with the legal, character, financial and technical qualifications and construction arrangements, the town shall grant applicant a franchise.
(Ord. No. 95-64, § II, 8-14-95)

Sec. 56-38. Term of franchise.

The duration of a franchise granted pursuant to this article shall not be more than 15 years from the effective date.
(Ord. No. 95-64, § III, 8-14-95)

Sec. 56-39. Termination and expiration of franchise.

(a) The town reserves the right to terminate, at any time, any franchise granted hereunder and rescind all rights and privileges associated therewith in the event that:

(1) Grantee has not complied in some material respect with a provision of this article or of a supplemental written agreement entered into by and between the town and the grantee; or in some material respect of terms or conditions of any franchise or permit issued hereunder; or

(2) Grantee has made a material, false statement in the application for the franchise, knowing it to be false; or

(3) The grantee, contrary to the best interest of public convenience and welfare, is not providing subscribers with regular, adequate, and proper service; consistent with the terms of any franchise granted hereunder; or

(4) The grantee becomes insolvent, enters into receivership or liquidation, files for bankruptcy or for composition of creditors, is unable or unwilling to pay his debts as they mature or is in financial difficulty of sufficient consequence so as to jeopardize the continued operation of the cable telecommunications system unless the grantee is in due process of contesting such debts; or

(5) Grantee violates any FCC order or ruling or the order or ruling of any other governmental body having jurisdiction over the grantee unless the grantee is lawfully contesting the legality of applicability of such order.

(b) In the event that the town shall decide to terminate for cause a franchise granted hereunder, it shall give the grantee 60 days written notice of its intention to terminate and stipulate the cause. If, during the 60-day period, the cause shall be cured to the satisfaction of the town, the town shall declare the notice to be null and void. In any event, before a franchise may be terminated, the grantee must be provided with an opportunity to be heard before the town board in accordance with due process procedures. If a grantee's franchise is terminated, the decision shall be subject to judicial review as provided by law.

(c) In the event that any part of the cable telecommunications system is discontinued for any reason for a continuous period of 30 days or the franchise held by a grantee to construct, operate, or maintain a cable telecommunications system is terminated by the town board, pursuant to the terms of this article, and all negotiations to settle the differences between the parties have failed (provided, however, that such negotiations shall not be required), the town board may advertise and seek another grantee to operate the system. If a franchise is granted to another person, the terminated grantee may be required to sell the entire cable telecommunications system to the new grantee at a price to be determined by three competent, independent appraisers, one each appointed by the terminated grantee, the new grantee, and the town board. The appraisers appointed shall use the then-best methods of appraising to determine this value. The cost of the appraisers shall be shared equally by the terminated grantee and the new grantee. The terminated grantee shall execute such deeds, bills of sale and other documents as may be necessary to effectuate this sale. The terminated grantee shall fully cooperate with these appraisers.

(d) In the event of the early termination of the franchise as herein provided, the town shall have the option to purchase the cable business for the fair market value of said capital improvements. The town may also require the grantee to sell any capital improvements as provided in this section to any successor grantee as set forth in subsection (c) hereof. In any event, the town may require the grantee to continue to provide service for a reasonable period not to exceed six months in order to assure uninterrupted service to subscribers.

(e) The town shall give to grantee notice of its intent to exercise the option to purchase at least 90 days prior to the expiration of the term of this franchise and/or such renewals thereof as are authorized. If the franchise is terminated or expires, notice of intent to exercise the option to purchase shall be contained in the

notice of intention to terminate.

(f) Should the grantee's franchise be terminated or expire, and not purchased as above provided, and at such times as the successor is ready to provide service, but no later than six months from termination or expiration, the grantee shall begin removal of all property owned by it and in place on public or private rights-of-way, unless permitted by the town to abandon said property in place. In so removing such plants, structures, and equipment, the grantee shall refill, at is own expense, any excavation made by it and shall leave such public and private places in as good condition as that prevailing prior to the company's installation of its equipment and appliances without affecting, altering, or disturbing in any way the electric distribution or telephone cable, wire, or attachments or any poles. The town board or other officer or his appointee, shall inspect and approve tile condition of such public ways and public places and cables, wire attachments, and poles after removal. Liability insurance and indemnity provided for herein shall continue in full force and effect during the entire period of removal.

In the event of any such removal, the grantee shall restore the public rights-of-way to a condition satisfactory to the town. Upon abandonment, which shall only be done as the town directs, the grantee shall transfer ownership of all such abandoned property to the town and submit to the town an instrument in writing, subject to the approval of the town attorney, effecting such transfer.

If the town or the state is forced to remove the system, the work shall be done at the expense of the terminated grantee.

(Ord. No. 95-64, § IV, 8-14-95)

Sec. 56-40. Transfer of cable telecommunications system.

(a) No transfer of control of the cable telecommunications system other than a pro forma transfer to a parent or a wholly owned subsidiary corporation shall take place, whether by force or voluntary sale, lease, mortgage, assignment, encumbrance, foreclosure, attachment, merger, or any other form of disposition, without prior notice to and approval by the town board. The notice shall include full identifying particulars of the proposed transaction and the town board shall act by resolution. The town board shall have 60 days within which to approve or disapprove a transfer of control; if no action is taken within 60 days, approval shall be deemed to have been given.

(b) Notice of such transfer, together with copies of all documents pertaining thereto shall be in writing filed with the town clerk at least 30 days prior thereof and expressly conditioned upon full compliance with the terms of the franchise issued and this article. The transferee shall agree in writing to comply with all provisions of this article and such other provisions and requirements as the town board might require.

(c) For the purpose of this section the term "control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of ten percent of the voting shares of the company.

(d) In the absence of extraordinary circumstances, the town board will not approve any transfer or assignment of the franchise before completion of initial construction of the energized system or within the first two years of operation thereafter.

(Ord. No. 95-64, § V, 8-14-95)

Sec. 56-41. Franchise and other fees.

(a) Within 60 days after each quarter of its fiscal year, after acceptance of a franchise, the grantee shall pay to the town for constructing, operating, and maintaining the cable telecommunications system as defined herein, and for the privilege of providing the cable telecommunications service as defined herein during the ensuing fiscal year, a sum equal to five percent of its gross revenue for its preceding quarter. The payment of this fee is in addition to any privilege or use tax or ad valorem taxes which the town may levy.

Within four months after the expiration of the grantee's fiscal year, the grantee shall file with the town an audited financial statement prepared by a certified public accountant showing in detail the gross subscriber revenues, as defined herein, of the grantee during such fiscal year. At any time, the town board, its employee or other designated representative, shall have the right to inspect all financial documents. Acceptance of payments hereunder shall not be construed as a release or as an accord and satisfaction of any claim the town may have for further or additional sums payable under this article or for the performance of any other obligations hereunder. In the event of holding over after expiration or other termination of any franchise granted hereunder, without the consent of the town, the grantee shall pay to the town reasonable compensation and damages, of not less than 100 percent of its total gross profits during said period.

(b) Company and Town of Morrisville agree that the five percent franchise fee provided for herein shall be reviewed every five years during the term of this franchise, and the franchise fee, at the sole option of the town board, shall be adjusted if the town board determines that an adjustment is necessary in order to maintain franchise fee at a level consistent with:

(1) Franchise fees being paid by cable telecommunications companies operating under similar conditions.

(2) The costs incurred by the town in administering this franchise.

(3) The value of the company's right to use town street and public easements.

(4) Any applicable statutes, laws, rules and regulations.

If the franchise fee is adjusted, such adjustment shall be effective at the beginning of the next immediate full quarter of the company's fiscal year during which such adjustment is made. The town may unilaterally adjust the franchise fee upward only after giving notice to the company and holding a hearing.
(Ord. No. 95-64, § VI, 8-14-95)

Sec. 56-42. Limitations of franchise.

(a) In addition to the limitations otherwise herein appearing, the franchise is subject to the following limitations: The grantee shall at all times during the life of any franchise hereunder be subject to all lawful exercise of the police power by the town and other duly authorized regulatory state and federal bodies and shall comply with any and all ordinances which the town has adopted or shall adopt applying to the public generally

and to other grantees, and shall be subject to all laws of the State of North Carolina, and the United States.

(b) Time shall be of the essence of any franchise granted hereunder. The grantee shall not be relieved of its obligations to comply promptly with a provision of this article by the failure of the town to enforce prompt compliance. Failure of the town to enforce any breach by the grantee shall not constitute a waiver by the town.

(c) Any franchise granted hereunder shall not relieve the grantee of any obligation under any pole or conduit use agreements both from the town and the telephone company, or others maintaining poles or conduits in the streets of the town, whenever the grantee finds it necessary to make use of said poles or conduits.

(d) Any poles, cable, electronic equipment or other appurtenances of the grantee to be installed in, under, over, along, across or upon a street shall be so located so as to cause minimum interference with the public use of the street and to cause minimum interference with the rights of other users of the streets or of property owners who adjoin any of the streets. All such installations shall be subject to the prior approval of the town.

(e) In the event of disturbance of any street or private property by grantee, he shall, at his own expense and in a manner approved by the town, replace and restore such street and private property in as good a condition as before the work causing such disturbance was done.

(f) Grantee shall construct, maintain, and operate the cable telecommunications system so as to cause minimum inconvenience to the general public. All excavations shall be properly guarded and protected and shall be replaced and the surface restored promptly after completion of the work at its sole cost and expense. The grantee shall at all times comply with all excavation ordinance requirements of the town.

(g) The grantee shall, upon reasonable notice from any person holding a building moving permit issued by the town, temporarily alter his facilities to permit the moving of such building. The actual cost of such altering shall be borne by the person requesting the altering and the grantee shall have the right to request payment in advance. For the provision of the ordinance, reasonable notice shall be construed to mean at least 48 hours prior to the move.

(h) If, at any time, in case of fire or disaster in the town, it shall become necessary in the judgement of the town manager or the chief of the fire department or their designee to cut or move any of the wires, cables, amplifiers, appliances, or appurtenances thereto of the grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the grantee at no expense to the town.
(Ord. No. 95-64, § VII, 8-14-95)

Sec. 56-43. Additional town rights in franchise.

(a) The town may from time to time add to or modify or delete provisions of this article as it shall deem necessary in the exercise of its regulatory powers provided that such revisions are reasonable and in keeping with the public interest and welfare. Such revisions shall be made only after a public hearing, for which the grantee shall have received written notice at least 30 days prior to such hearing, is held.

(b) The town reserves the right, upon reasonable notice, to require the grantee at his expense, to

protect, support, temporarily disconnect, relocate or remove from the town's streets any property of the grantee by reason of traffic conditions, public safety, street construction or excavation, change or establishment of street grade, installation of sewers, drains, water pipes, power or communication lines, tracts, or other types of structure or improvements by governmental agencies or any structures of public improvement. Reasonable notice for this provision of the article shall be construed to mean at least 30 days except in the case of emergencies where no specific notice period shall be required.

(c) In the event of the failure by the grantee to complete any work required by (b) above or any work required by town law or ordinance within the time established and to the satisfaction of the town, the town may cause such work to be done and the grantee shall reimburse the town the costs thereof within 30 days after receipt of an itemized list of such costs.

(d) The town reserves the right, in the event of an emergency or disaster, to require the grantee to make available to the town manager or his appointee, at his request, grantee's facilities at no cost, for emergency use during such emergency or disaster period.

(e) The town reserves the right during the life of any franchise granted hereunder to have access to all plans, contracts and engineering, accounting, financial, statistical, customer, and service records relating to the property and the operations of the grantee and to all other records required to be kept hereunder upon reasonable request.

(f) The town reserves the right during the life to any franchise granted hereunder, to install and maintain free of charge upon the poles and conduits of the grantee any wire and pole fixtures necessary for municipal networks such as police and fire, on the condition that such installations and maintenance thereof do not interfere with the operations of the grantee.

(g) The town reserves the right during the life of any franchise granted hereunder, to reasonably inspect and supervise at the grantee's cost, all construction or installation work performed subject to the provisions of the article to ensure compliance with the terms of the article. The town may also perform measurements upon and randomly inspect any portion of a grantee's system to ensure compliance with the technical standards under which the grantee is authorized to operate. Upon the town's request, the grantee will perform the tests, submitting the results to the town.

(h) The town reserves the right during the life of any franchise granted hereunder, to upon 90 days' notice hold a public hearing for the expressed purpose of reviewing the general and specific performance of the grantee with regard to all franchise provisions contained herein or in the future adopted by the town.

(i) Neither the granting of any franchisee nor any governing provision of such franchise shall constitute a waiver or bar to the exercise of any governmental right or power of the town.

(j) Nothing in this article shall in any way or to any extent be construed to waive, modify or abridge the town's right of eminent domain in respect to the grantee.

(k) Any right or power in, or duty impressed upon any officer, employee, department or board of the town shall be subject to transfer by the town board by law to any other officer, employee, department or board of the town. The town reserves all rights not specifically granted herein, and the enumeration of the rights

herein shall not be construed to be a limitation of any right or power the town may otherwise have.

(l) The town shall have the authority to order a hearing every five years on the provision of additional capacity. If after such a hearing, the town determines:

(1) That a requirement for additional capacity exists; and

(2) That consideration has been made or will be made for adequate rates to allow the company a fair rate of return on its additional investment;

then the town may direct that such additional capacity shall be provided to the extent economically feasible and consistent with provision of paragraph (2) above.

(Ord. No. 95-64, § VIII, 8-14-95)

Sec. 56-44. Initial service area.

(a) The grantee of any franchise hereunder is empowered to provide service to all potential subscribers now or in the future who are located within the town limits as of the effective date of the franchise.

(b) In the event the continued use of a street is denied for any reason, the grantee will make every reasonable effort to provide service over alternate routes.

(Ord. No. 95-64, § IX, 8-14-95)

Sec. 56-45. Emergency alert override system.

The company shall incorporate into its cable telecommunications system, the capability which will permit the town, in times of emergency, to override the audio portion of all channels simultaneously, by telephone or other communicating medium to be provided by the company.

(1) The company shall designate a channel which will be used for emergency broadcasts of both audio and video.

(2) The company shall cooperate with the town in the use and operation of the emergency alert override system.

(Ord. No. 95-64, § X, 8-14-95)

Sec. 56-46. Interconnection.

The company shall interconnect its cable system with any or all other cable systems in nearby areas, upon the directive of the town. To accomplish this requirement, the company shall familiarize itself with the technical demands necessary to cause such interconnection.

(1) Interconnection of the systems may be done by direct cable connection, microwave link, satellite, or other appropriate method.

(2) Upon receiving a directive from the town to interconnect, the company shall immediately initiate

negotiations with the other affected system or systems in order that all costs may be shared equitably among cable companies for both construction and operation of the interconnection link. Such interconnection shall be made within the time limit established by the town.

(3) The company may be granted reasonable extensions of the time to interconnect, or the town may rescind its order to interconnect upon petition by the company to the town. The town shall grant the request, if it finds the company has negotiated in good faith and has failed to obtain approval from the other affected systems, or the cost of interconnection would cause an unreasonable or unacceptable increase in subscriber rates.

(4) The company shall cooperate with any interconnection corporation, regional interconnection authority or town, county, state and federal regulatory agency established for the purpose of regulating, financing, or otherwise providing for the interconnection of cable systems beyond the boundaries of the town. Further, the company will cooperate with other cable telecommunications system operators in an attempt to standardize the number of channels likely to be interconnected, to standardize a suitable frequency plan that would be compatible with existing microwave coverage in the area that would permit the maximum number of systems to interconnect, and to standardize the actual channel assignments.

(5) The company shall design and operate the system so as to facilitate interconnection as stated above.

(Ord. No. 95-64, § XI, 8-14-95)

Sec. 56-47. Access funding.

(a) The town shall have the right to establish an authority or commission to administer for the town all community media (access) activities.

(b) The town shall have the right to direct the grantee to collect fees from customers to support the annual operating requirements of a community media (access) operation. The fee shall be collected and remitted to the town for deposit in a special revenue fund, designated for this purpose each month.

(c) Each month, the grantee shall contribute a sum equivalent of one-half of one percent of gross revenues to a special revenue fund designated for the acquisition of capital assets, to fulfill the capital requirements of the community media (access) operation.

(Ord. No. 95-64, § XII, 8-14-95)

Sec. 56-48. Channels, new developments and access utilization.

The town shall have the authority to order a public hearing from time to time on the provision of channel capacity for public bandwidth on the network. If after such a hearing, the town determines:

(1) That there exists a reasonable demand for additional bandwidth; and

(2) That provisions have been made or will be made to allow the company a fair rate of return on its investment, the town shall order the company to provide such additional capacity within a

reasonable amount of time.

If the town finds that additional public bandwidth is desirable, the company shall within three months from receipt of written notice from the town, make additional bandwidth available.
(Ord. No. 95-64, § XIII, 8-14-95)

Sec. 56-49. Rights of individuals.

(a) Company shall not deny service, deny access, or otherwise discriminate against subscribers, channel users, or other users, or any citizen on the basis of race, color, religion, national origin, sex or sexual orientation. Company shall comply at all times with all other applicable federal, state and local laws and regulations, and all executive and administrative orders relative to nondiscrimination which are hereby incorporated and made part of the article by reference.

(b) No signals shall be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. No person shall be required to grant such permission. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provision. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever.

(c) Except in respect to an approved transfer of all or part of the company, the company, or any of its agents or employees or agents or employees of the Town of Morrisville, shall not, without the specific written authorization (contained in a separate document) of the subscriber involved, sell or otherwise make available to any party:

(1) Any lists or other material containing the names and addresses of such subscribers, or

(2) Any list or other material which identifies the individual viewing habits of subscribers.

(d) No person shall be required to sign an authorization allowing the company to make this information available to any party.
(Ord. No. 95-64, § XIV, 8-14-95)

Sec. 56-50. Liability and indemnification.

(a) It shall be expressly understood and agreed by and between the town, employees and officials and any grantee hereunder that the grantee shall save the town, its employees and officials harmless and indemnify it and them from all loss sustained by the town, its employees and officials on account of any suit, judgement, execution, claim or demand whatsoever, including but not limited to, copyright infringement and all other damages arising out of the award of a franchise on the installation or operation or maintenance of the cable telecommunications system authorized herein, whether or not any act of omission complained of its authorized, allowed or prohibited by this article and any franchise granted hereunder.

(b) The grantee shall pay, and by his acceptance of any franchise granted hereunder agrees that he will pay, all expenses incurred by the town, employees and officials in defending itself with regard to all damages and penalties mentioned in subsection (a) above. These expenses shall include all reasonable out of

pocket expenses, such as consultant or attorney fees, and shall also include the reasonable value of any services rendered by the town attorney or his staff or any other employees of the town.
(Ord. No. 95-64, § XV, 8-14-95)

Sec. 56-51. Filing and communications with regulatory agencies.

The grantee shall simultaneously file and maintain with the town board copies of all petitions, applications and communications, relative to any franchise granted pursuant to this article, transmitted by the grantee to, or received by the grantee from all federal and state regulatory commissions or agencies having competent jurisdiction to regulate the operations of any broad band telecommunications network authorized hereunder.
(Ord. No. 95-64, § XVI, 8-14-95)

Sec. 56-52. Miscellaneous provisions.

(a) *Compliance with laws.* Grantee agrees to comply full with all local ordinances, state and federal laws, and with all rules issued by all regulatory agencies now or hereafter in existence.

(b) *Severability.* If any section, sentence, clause or phrase of the ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the remainder of this article, and any portions in conflict are hereby repealed; provided, however, that in the event that the FCC declares any section invalid, then such section or sections will be renegotiated by the town and the grantee.

(c) *Captions.* The captions to sections are inserted solely for information and shall not affect the meaning or interpretation of the article.

(d) *No recourse against the town.* The grantees shall have no recourse whatsoever against the town or its officers, boards, commissioners, agents, or employees for any loss, cost, expense or damage arising out of any provision or requirement of this article or because of its enforcement.

(e) *Nonenforcement.* The grantee shall not be relieved of its obligation to comply promptly with any of the provisions of the franchise by any failure of the town to enforce prompt compliance.

(f) This article and any disputes arising from its adoption, or from any franchise granted pursuant thereto shall be governed by the laws of the State of North Carolina and the town consistent with applicable FCC rules and regulations required to be observed in the enforcement of this article.

(g) This article shall not be deemed conclusive as to the terms and conditions of any franchise hereinafter issued hereunder. The final terms and conditions of such franchise shall be determined by the franchise ordinance.

(h) *Franchise required.* It shall be unlawful for any person, firm, or corporation to construct, operate or maintain a cable telecommunications system in the town as defined without a franchise.

(i) *New franchises.* The provisions of this article shall apply only to franchises issued after the effective date of this article [August 14, 1995]. Any previously existing franchise shall comply with the cable

standards ordinance in effect at the time the franchise was granted.
(Ord. No. 95-64, § XVII, 8-14-95)

Chapter 57

RESERVED

Chapter 58

TRAFFIC AND VEHICLES*

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* **Cross References:** Heavy trucks prohibited at park facilities, § 38-1; streets, sidewalks and other public places, ch. 54.

State Law References: Motor vehicles, G.S. 20-1 et seq.; powers of local authorities, G.S. 20-169; streets, traffic and parking in municipalities, G.S. 160A-296 et seq.

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ARTICLE I.

IN GENERAL

Sec. 58-1. Obedience to traffic regulations.

No person shall do any act forbidden or fail to perform any act required in this chapter.
(Ord. of 8-27-79, § 4-5)

Sec. 58-2. Obedience to police.

No person shall wilfully fail, or refuse, to comply with any lawful order, or direction, by a police officer.
(Ord. of 8-27-79, § 4-6)

Sec. 58-3. Authority of police in special cases.

In the event of a fire or other emergency, or when necessary to expedite traffic or safeguard pedestrians, police officers may direct traffic as conditions may require, notwithstanding the provisions of this chapter.
(Ord. of 8-27-79, § 4-7)

Sec. 58-4. Firefighters authorized to direct traffic at fires.

Members of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic in the immediate vicinity.
(Ord. of 8-27-79, § 4-8)

Cross References: Fire prevention and protection, ch. 22.

Sec. 58-5. Public employees subject to traffic regulations.

Unless otherwise provided in this chapter or by state statutes, the provisions of this chapter shall apply to the driver of any vehicle owned by, or used in the service of, the United States Government, this state, county or town.
(Ord. of 8-27-79, § 4-9)

Cross References: Officers and employees, § 2-61 et seq.

Sec. 58-6. Persons propelling pushcarts or riding bicycles or animals subject to traffic regulations.

Every person propelling any pushcart, or riding a bicycle or an animal, or driving any animal-drawn vehicle upon a roadway shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions which, by their very nature, can have no application.
(Ord. of 8-27-79, § 4-10)

Sec. 58-7. Exemptions to authorized emergency vehicles.

(a) The provisions of this chapter regulating the operation, parking, and standing of vehicles shall apply to authorized emergency vehicles except that the driver when operating such vehicle in an emergency, unless otherwise directed by a police officer, may:

(1) Park or stand, notwithstanding the provisions of this chapter;

(2) Proceed past a red or stop signal, or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the speed limits as long as he does not endanger life or property;

(4) Disregard regulations governing direction of movement, or turning in specified directions as long as he does not endanger life or property.

(b) The foregoing exemptions shall not protect the driver of any such vehicle from the consequences of his reckless disregard for the safety of others.
(Ord. of 8-27-79, § 4-11)

State Law References: Similar provisions, G.S. 20-156.

Sec. 58-8. Boarding or alighting while vehicle in motion.

No person shall board or alight from any public conveyance or other vehicle while such conveyance or vehicle is in motion.
(Ord. of 8-27-79, § 4-57)

Sec. 58-9. Unlawful riding.

(a) No person shall ride on any public, conveyance or vehicle, or any portion thereof not designed or intended for the use of passengers.

(b) This section shall not apply to any employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in spaces intended for merchandise.
(Ord. of 8-27-79, § 4-58)

Sec. 58-10. Riding without permission.

No person shall enter, jump on, or ride any automobile, or other vehicle, without the consent of the owner or driver.
(Ord. of 8-27-79, § 4-59)

Sec. 58-11. Riders must stay inside vehicle.

No person when riding shall allow any part of his body to protrude beyond the limits of the vehicle in which he is riding, except to give such signals as are by law required, and no person shall hang on to any vehicle whatsoever.
(Ord. of 8-27-79, § 4-60)

Sec. 58-12. Limitations of riders in front seat.

No driver of or person in charge of any motor vehicle shall permit more than three persons, including driver, to ride in the front, or driver's seat of a motor vehicle.
(Ord. of 8-27-79, § 4-61)

Secs. 58-13--58-30. Reserved.

ARTICLE II.

OPERATION OF VEHICLES*

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* **State Law References:** Operation of vehicles and rules of the road, G.S. 20-138 et seq.

Sec. 58-31. Stop before entering a through street.

(a) Those streets and portions of streets designated as through streets and where signs are erected are hereby declared to be through streets for the purpose of this section.

(b) When stop signs are placed, erected, or installed upon streets intersecting a through street at the entrance thereto, or at the entrance to any intersection, every driver of a vehicle shall stop in obedience to such signs before entering the intersection and shall not proceed into, or across, the through street until he has first

determined that no conflict with traffic will be involved.
(Ord. of 8-27-79, § 4-28)

Sec. 58-32. Stop before entering certain street intersections.

Those intersections, where signs are erected, are hereby declared to be stop intersections when entered from the streets first named, and when stop signs are placed, erected, or installed at such intersections every driver of a vehicle or streetcar shall stop in obedience to such signs before entering the intersection, and shall not proceed into, or across, the through street until he has first determined that no conflict with traffic will be involved.
(Ord. of 8-27-79, § 4-29)

Sec. 58-33. Stop when traffic obstructed.

No driver shall 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.
(Ord. of 8-27-79, § 4-30)

Sec. 58-34. Driving through funeral processions.

No person shall drive through a funeral procession, except fire department vehicles, police patrols and ambulances, when the same are responding to calls.
(Ord. of 8-27-79, § 4-31)

Cross References: Parades, picket lines and group demonstrations, § 54-36 et seq.

Sec. 58-35. Turning at channelized intersections.

Upon a street at any intersection, and within any intersection where traffic has been channelized by lines painted on the street, or direction of traffic is indicated by arrows on the street, or is indicated by appropriate signs above the intersections, drivers of vehicles shall observe the direction of every such sign, and in preparation for a turn before approaching such intersections, shall, with proper regard for the safety of others using the street, move into the proper allocated lane at least 50 feet before reaching the intersection, and shall make no turn to either right or left unless within a lane in which such turn is permitted.
(Ord. of 8-27-79, § 4-32)

Sec. 58-36. Limitation on turning around.

No driver shall turn any vehicle so as to proceed in the opposite direction in the business district.
(Ord. of 8-27-79, § 4-33)

Sec. 58-37. Limitations on backing.

No driver shall back a vehicle into any intersection, or over a crosswalk, and shall not in any event, or at any place, back a vehicle unless such movement can be made in safety, and he shall have given ample warning to those who may be behind, by hand and horn or other signal.
(Ord. of 8-27-79, § 4-34)

Sec. 58-38. Vehicles emerging from alley or driveway.

The driver of a vehicle emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or into the sidewalk areas extending across any alleyway, and upon entering the roadway he shall yield the right-of-way to all pedestrians and vehicles approaching on such roadway.
(Ord. of 8-27-79, § 4-35)

Sec. 58-39. Vehicles driven on sidewalk prohibited.

No person shall drive a vehicle within any sidewalk area except at a permanent or temporary driveway.
(Ord. of 8-27-79, § 4-36)

Sec. 58-40. Commercial vehicles prohibited on certain streets.

No person shall operate any commercial vehicle exceeding one-half-ton capacity at any time upon certain streets or parts of streets described on the official traffic map, except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding thereon no farther than the nearest intersection thereafter.
(Ord. of 8-27-79, § 4-37)

Sec. 58-41. Speed limit on through highways and state-maintained streets.

A person may operate a vehicle on any street of the town designated as a through highway or state-maintained street, at a rate of speed posted thereon as provided by ordinances of the town with concurring regulations of the state highway commission; provided, that at no time shall the speed be greater than is reasonable and prudent under the conditions then existing or to conform with the state speed laws.
(Ord. of 8-27-79, § 4-40)

Sec. 58-42. Speed on nonhighway streets and in vicinity of schools.

No person shall operate a vehicle on a nonhighway system street in a residential area or in the vicinity of schools in excess of 25 miles per hour.
(Ord. of 8-27-79, § 4-41)

Sec. 58-43. Driving on roadways laned for traffic.

Every driver of a vehicle on any roadway which has been clearly marked with lanes for traffic, shall drive as nearly as practical entirely within a single lane and shall not move from such lane until he has first determined that such movement can be made with safety.
(Ord. of 8-27-79, § 4-42)

Sec. 58-44. Driving over fire hose.

No person shall drive a vehicle over any hose of the fire department when laid down on any street or driveway, to be used at any fire, without the consent of the fire department official in command.
(Ord. of 8-27-79, § 4-43)

State Law References: Similar provisions, G.S. 20-157.

Secs. 58-45--58-60. Reserved.

ARTICLE III.

TRAFFIC CONTROL DEVICES*

* **State Law References:** Vehicle control signs and signals, G.S. 20-158.

Sec. 58-61. Obedience to official traffic control devices.

(a) The driver of every vehicle shall obey the directions of any official traffic control device placed, erected or installed in accordance with the traffic ordinances of the town, unless otherwise directed by a police officer, or otherwise provided in this chapter.

(b) No provision of this article for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective without signs being placed to give notice thereof.
(Ord. of 8-27-79, § 4-17)

Sec. 58-62. Traffic control signal legend.

(a) Whenever traffic is controlled by traffic control signals exhibiting the word "Go," "Caution" or "Stop," or exhibiting differently colored lights successively, one at a time, the following colors only shall be used and such terms and lights shall indicate as follows:

(1) Green alone, or "Go."

a. Vehicular traffic facing the signal may proceed straight through, or turn right unless a sign at such place prohibits either such turn. But vehicular traffic shall yield the right-of-way to other vehicles, and to pedestrians, lawfully within the intersection at the time such signal is exhibited.

b. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Yellow alone, or "Caution," when shown following or overlapping the green or "Go" signal.

a. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

b. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(3) Red with green arrow.

a. Vehicular traffic facing such a signal may cautiously enter the intersection, only to continue the movement in the direction indicated by such arrow but shall not interfere with other traffic.

b. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(Ord. of 8-27-79, § 4-18)

Sec. 58-63. Flashing signals.

Whenever flashing red or yellow signals are used, they shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal). When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection, or at a limit line when marked, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or pass such signal only with caution.

(Ord. of 8-27-79, § 4-19)

Sec. 58-64. Obedience to no-turn signs and turning markers.

Whenever authorized signs are placed, erected, or installed indicating that no right or left or "U" turn is permitted, no driver of a vehicle shall disobey the directions of any such sign, and when authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles traversing, or turning, no driver of a vehicle shall disobey the directions of such indications.

(Ord. of 8-27-79, § 4-20)

Sec. 58-65. Obedience to no parking zone and safety zone markers.

Whenever authorized signs or markings are placed, erected or installed indicating no parking zones or safety zones, no driver of a vehicle shall disobey the regulations in connection therewith.

(Ord. of 8-27-79, § 4-21)

Sec. 58-66. Obedience to traffic signs and signals; deliberately avoiding traffic-control devices prohibited.

(a) No person shall drive a vehicle upon or across public or private through driveways, curb cuts, or

otherwise for the purpose of proceeding from any street to an intersecting street with the intent of avoiding traffic signs or signals erected or installed for vehicular traffic control.

(b) (1) It shall be unlawful to operate a motor vehicle in such a manner as to avoid or attempt to avoid an official traffic-control device by driving across a sidewalk, through a parking lot, or across any other private property.

(2) Violation of this subsection (b) shall constitute an infraction punishable by a penalty of $86.00 per violation for cost of court.

(Ord. of 8-27-79, § 4-22; Ord. No. 00-13, §§ 1, 2, 3-13-00)

Sec. 58-67. Quiet zone.

Whenever authorized signs are placed, erected, or installed indicating a zone of quiet, no person operating a motor vehicle within any such zone shall sound the horn, or other warning device of the vehicle, except in an emergency.

(Ord. of 8-27-79, § 4-23)

Sec. 58-68. Play streets.

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

(Ord. of 8-27-79, § 4-24)

Sec. 58-69. School zones.

Whenever authorized signs are placed, erected, or installed indicating any street, or part thereof, all drivers of motor vehicles using such street, or part thereof, shall exercise the greatest care in driving upon such street, or part thereof, for the protection of children.

(Ord. of 8-27-79, § 4-25)

Sec. 58-70. Recreational streets.

Whenever authorized signs are placed, erected, or installed indicating any street, or part thereof as a recreational street, no person shall drive a motor vehicle upon such street, or part thereof, during the times indicated. All such streets shall be properly designated by the board of commissioners.

(Ord. of 8-27-79, § 4-26)

Sec. 58-71. Temporary street closings and designation of parking or no parking zones due to special events.

(a) The chief of police, or designee, is authorized to temporarily close to vehicular traffic, or restrict to local traffic, any street or streets within the town when the chief deems it necessary to meet the particular needs of a special event and to temporarily alter vehicular parking areas by permitting parking on streets where

parking is normally prohibited or prohibiting parking on streets or in areas where parking is normally permitted.

(b) The authority granted herein is subject to the following:

(1) The area and boundaries of any street closing will consist of only those areas directly related to the special event and shall include any public street, sidewalk, or publicly owned area that is within or constitutes the boundary of the event.

(2) No street, or portion thereof, may be closed for more than eight hours without the approval of the town manager.

(3) The fire chief shall be notified in advance of all street closings.

(4) Alteration of normal parking in areas affected by the special event will only be allowed for the 12 hours immediately prior to the event and during the event.

(Ord. of 8-27-79, § 4-27; Ord. No. 01-56, §§ 1--3, 9-10-01)

Secs. 58-72--58-90. Reserved.

ARTICLE IV.

STOPPING, STANDING AND PARKING*

* **State Law References:** Parking generally, G.S. 20-161 et seq.; municipal regulation of parking, G.S. 160A-301.

Sec. 58-91. Vehicles not to obstruct traffic.

No vehicle shall so stand on any street as to interrupt, or interfere with, the passage of public conveyances or other vehicles.

(Ord. of 8-27-79, § 4-45)

Sec. 58-92. Service vehicles to be equipped with warning devices.

No person shall permit or cause to permit any construction, service, or maintenance vehicles to stand or be parked within the right-of-way of public roads and streets of the town in such a manner as to obstruct, impede, or interfere with the normal traffic use on the streets; provided, that such vehicles may be temporarily used outside of the right-of-way or on a necessary portion thereof; facing in the same direction as the flow of traffic; provided further, that warning signs indicating "Men Working," together with red flags thereon shall be placed not less than 200 feet in the front and rear of such vehicle or equipment. Such red flags shall be displayed on the signs from sunup to sundown, and after sundown red flares or lanterns shall be displayed adjacent to the warning signs. These warning signs and signals shall be displayed as long as such vehicle is being so used.

(Ord. of 8-27-79, § 4-46)

Sec. 58-93. Parallel parking.

Where not otherwise indicated by this chapter, and where the street is not marked to show how vehicles shall park, all vehicles shall park parallel to the curb and not more than 12 inches therefrom.
(Ord. of 8-27-79, § 4-49)

Sec. 58-94. Vehicles backed up to curb.

No vehicle shall remain backed up to the curb, except when actually loading or unloading. If the vehicle is horse-drawn, the horse shall stand parallel to the curb and face the direction of the traffic.
(Ord. of 8-27-79, § 4-50)

Sec. 58-95. Stopping on left side to curb prohibited.

No vehicle shall stop with its left side to the curb in the business district, except that on one-way streets vehicles shall stop headed in the direction of traffic.
(Ord. of 8-27-79, § 4-51)

Sec. 58-96. Parking within lines.

On any place which is marked off with lines indicating the parking spaces, cars shall be parked between the lines.
(Ord. of 8-27-79, § 4-52)

Sec. 58-97. Illegal parking.

No person shall stand or park a vehicle upon any street for the principal purpose of:

(1) Displaying it for sale.

(2) Washing, greasing, or repairing such vehicle except repairs necessitated by an emergency.

(3) Storage thereof by garages, dealers or other persons when such storage is not incident to the bona fide use and operation of such automobile or other vehicles.

(4) Storage of any detached trailer, or van when the towing unit has been disconnected, or for the purpose of transferring merchandise, or freight, from one vehicle to another.

Sec. 58-98. Standing or parking for advertising prohibited.

No person shall stand or park on any street any vehicle for the primary purpose of advertising.
(Ord. of 8-27-79, § 4-54)

Sec. 58-99. Reserved parking spaces.

Those streets, or portions of streets, where signs are placed, or marked off in any way to designate a specific purpose shall be reserved and no automobile or other vehicle except those for which the space has been

designated shall park therein.
(Ord. of 8-27-79, § 4-47)

Sec. 58-100. Taxicabs parked in same block.

Not more than two taxicabs owned by the same company shall be parked in one block at the same time, except such taxicabs as may be parked in established taxi stands and designated as such.
(Ord. of 8-27-79, § 4-48)

Sec. 58-101. Stopping, standing or parking prohibited in certain places.

No person shall stop, stand, or park a vehicle, attended or unattended, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or traffic control device in any of the following places:

(1) On the sidewalk.

(2) Within an intersection or in front of a private driveway.

(3) On a crosswalk.

(4) Within 30 feet of any flashing beacon, stop sign, or traffic control signal located at the side of a street or roadway.

(5) On either side of any street approaching a railroad underpass, or overhead bridge, within 50 feet in any direction of the outer edge of such underpass or overhead bridge.

(6) On either side of any approaching grade crossing within 50 feet of the closest rail; provided, that where existing permanent structures are located along the street and closer than 50 feet, parking may be permitted in front of such structures, unless otherwise prohibited if the parking does not interfere with the view in either direction of an approaching locomotive or train.

(7) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(8) Upon any bridge or other elevated structure.

(9) Within 15 feet in either direction of the entrance to a hotel, theater, hospital, sanitarium, or any public building or a fire hydrant or a fire station.

(10) On the roadway side of any vehicle stopped, standing, or parked at the edge or curb of a street.

(11) Within 25 feet from the intersection of curblines or if none, then within 15 feet of the intersection of property lines at an intersection of highways or streets.

(Ord. of 8-27-79, § 4-55)

Sec. 58-102. Moving of vehicles into prohibited area.

No person shall move a vehicle into any prohibited area, or sufficiently away from the curb to make such distance unlawful.
(Ord. of 8-27-79, § 4-56)

Sec. 58-103. Vehicles moving from parked positions.

Vehicles moving from parked positions shall move out in the direction headed, or if they are parked at any angle with the curb they shall back out on that angle until they have cleared the other vehicles and shall then proceed in the direction they are most nearly headed.
(Ord. of 8-27-79, § 4-39)

Sec. 58-104. Lights on parked vehicles.

The displaying of lights upon a vehicle, when lawfully parked at night upon a street in accordance with this article, shall not be required when there is sufficient light to reveal any person within a distance of 200 feet upon such street.
(Ord. of 8-27-79, § 4-38)

Sec. 58-105. Vehicles stopping in streets prohibited; exceptions.

No person shall stop in any street except for the purpose of parking as prescribed in this article, unless such stop is made necessary by the approach of fire apparatus, by the approach of a funeral or other procession which is given the right-of-way, by the stopping of a public conveyance, by the lowering of railway gates, by the giving of traffic signals, by the passing of some other vehicle or a pedestrian, or by some emergency; and in any case covered by these exceptions such vehicle shall stop so as not to obstruct any footway, pedestrian aisle, safety zone, crossing or street intersection if such can be avoided.
(Ord. of 8-27-79, § 4-44)

Secs. 58-106--58-120. Reserved.

ARTICLE V.

BICYCLES*

* **State Law References:** Operation of bicycles, G.S. 20-171.1 et seq.

Sec. 58-121. Application of traffic laws to bicycles.

Every person riding a bicycle upon a roadway shall be granted all rights and shall be subject to all duties applicable to the driver of a vehicle by the laws of the state and the traffic provisions of this chapter applicable to the driver of a vehicle, except as to those provisions of laws and ordinances which by their nature are

inapplicable.
(Ord. of 8-27-79, § 4-95)

Sec. 58-122. Obedience to traffic control devices.

(a) Any person operating a bicycle shall obey the instructions of official traffic control signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(b) Whenever authorized signs are erected indicating that a turning movement is restricted, no person operating a bicycle shall disobey the direction of any such sign, except where that person dismounts from the bicycle to make the turn, in which event such person shall then obey the regulations applicable to pedestrians.
(Ord. of 8-27-79, § 4-96)

Sec. 58-123. Manner of riding bicycle.

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

(b) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set for the exclusive use of bicycles.

(c) If usable paths for bicycles are provided adjacent to a roadway, bicycle riders shall use such paths and shall not use the roadway.
(Ord. of 8-27-79, § 4-97)

Sec. 58-124. Riding on roadways and bicycle paths.

(a) Every person operating a bicycle upon a roadway shall ride as near to the righthand side of the roadway as practicable, exercising due care when passing a standing vehicle or a vehicle proceeding in the same direction.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
(Ord. of 8-27-79, § 4-98)

Sec. 58-125. Speed restrictions.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions existing.
(Ord. of 8-27-79, § 4-99)

Sec. 58-126. Bicycles emerging from alleys or driveways, yielding right-of-way.

The operator of a bicycle emerging from an alley, driveway, or building, shall upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians

approaching on the sidewalk or sidewalk area. Upon entering the roadway the operator shall yield the right-of-way to all vehicles approaching on the roadway.
(Ord. of 8-27-79, § 4-100)

Sec. 58-127. Clinging to moving vehicles.

No person riding any bicycle, motorcycle, coaster, sled, rollerskates, or any toy vehicle, shall attach the same or himself to any public conveyance or moving vehicle upon the roadway.
(Ord. of 8-27-79, § 4-101)

Sec. 58-128. Riding on handlebars.

The operator of a motorcycle, or bicycle, when upon a street, shall not carry any person upon the handlebar, frame, or tank of any such vehicle, nor shall any person so ride upon any such vehicle.
(Ord. of 8-27-79, § 4-102)

Sec. 58-129. Hands on handlebars; carrying articles.

(a) No person shall ride a bicycle or motorcycle on any street without having at least one hand upon the handlebars.

(b) No person operating a bicycle shall carry any package, bundle or article which prevents him from keeping at least one hand upon the handlebars.
(Ord. of 8-27-79, § 4-103)

Sec. 58-130. Bicycle riding on sidewalks.

No person shall ride a bicycle on any sidewalk within the town.
(Ord. of 8-27-79, § 4-104)

Sec. 58-131. Lamps and equipment on bicycles.

(a) Bicycles in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 300 feet to the front and with a red reflector on the rear of a type which shall be visible from 50 feet to 300 feet to the rear. A lamp emitting a red light visible from a distance of 200 feet to the rear may be used in addition to the red reflector.

(b) A bicycle shall not be equipped with, nor shall any person use, any siren or whistle upon a bicycle.

(c) Bicycles shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.
(Ord. of 8-27-79, § 4-105)

Sec. 58-132. Bicycle parking.

(a) No person shall park a bicycle in the central business district or in any commercial district except in bicycle racks provided for such purposes.

(b) No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb in such manner as to afford the least obstruction to pedestrian traffic.
(Ord. of 8-27-79, § 4-106)

Chapters 59--61

RESERVED

Chapter 62

UTILITIES*

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* **Editors Note:** An Ordinance of November 25, 1996, did not specifically amend this Code; however, its provisions seemed to supersede existing provisions. Therefore, former chapter 62, §§ 62-1--62-154, has been replaced as herein set out, at the editor's discretion. Former chapter 62 was derived from Code 1976, Ord. of 11-5-79; Ord. of 11-4-86; Ord. No. 90-21, adopted 4-9-90; Ord. No. 92-69, adopted 9-14-92; Ord. No. 92-45, adopted 11-8-92; Ord. of 2-9-94; Ord. No. 94-34, adopted 5-23-94; Ord. No. 95-6, adopted 1-9-95; and Ord. No. 95-24, adopted 3-27-95.

Cross References: Buildings and building regulations, ch. 10; water shortage conservation measures, § 18-2; storm drainage, § 18-201 et seq.; streets, sidewalks and other public places, ch. 54.

State Law References: Municipal authority to construct, establish, operate, etc., water and sewer systems, G.S. 160A-312.

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Secs. 62-1--62-35. Reserved.

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Sec. 62-117. Control by town; fees to town.
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ARTICLE I.

IN GENERAL

Secs. 62-1--62-35. Reserved.

ARTICLE II.

DEPARTMENT OF PUBLIC UTILITIES

Sec. 62-36. Director, officers and employees.

The department of public utilities shall consist of a director, who shall serve as its administrative head, and such other officers and employees as deemed necessary by the manager and board.

"Director" and "Public Utilities Department" shall be defined as such individual or individuals as may be assigned by the town manager from time to time to perform the duties as defined herein.
(Ord. of 11-25-96)

Sec. 62-37. Functions and duties of the department.

The functions and duties of the department include:

(1) Provision of management, staff assistance and accounting records support for the public utilities department.

(2) Maintenance and operation of water treatment, measurement, storage and pumping to provide adequate quantities of potable water for residential, commercial and industrial use and to provide adequate water for fire protection purposes; and to supply pure water free of pathogenic organisms, harmful chemicals, objectionable materials and excessive controls which meets all regulatory requirements of state and federal agencies.

(3) Construction, operation, maintenance, repair and upgrade of the water distribution system including the water main grid system, water transmission mains, valves, fire hydrants and other system components.

(4) Maintenance and operation of a water pollution control system by transporting, treating and disposing of waste water from the town.

(5) Construction, maintenance and operation of the sewage collection system of the town, including installing, replacing, repairing, rodding, cleaning and inspecting sewer mains, sewer outfalls and

sewer interceptors, and the maintenance and repair of manholes and easements.

(6) Installation, maintenance, repair, and replacement of water meters, including the installation and repair of water and sewer service lines in accordance with this Code.

(7) Reception, maintenance and issuance of all materials used by the department's operating division; maintenance and conduct of minor repairs to water and sewer maintenance shop and storage grounds.

(Ord. of 11-25-96)

State Law References: Public enterprise services generally G.S. 160A-311 et seq.

Secs. 62-38--62-55. Reserved.

ARTICLE III.

WATER AND SEWER SERVICE

DIVISION 1.

GENERAL PROVISIONS

Sec. 62-56. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them respectively:

Building water service lines and *building sewer service lines* shall mean those portions of the piping systems connecting a building to the water service lines and sewer lines exterior to a building and located entirely on private property, in the case of Building sewer service lines, and on the building side of any water meter, in the case of a building water service line.

Dedicators shall mean and include the person owning or constructing any private utility system being dedicated to the town.

Gross acre shall mean the total area contained within any lot, tract or parcel, including common areas and private streets for developments authorized by this Code, which is derived from a map recorded with the Wake County Register of Deeds notwithstanding any lien, covenant, land use restriction (such as floodway) or public or private easement which may affect the lot, tract or parcel; each lot tract or parcel.

Major water and sewer mains or *major water and major sewer mains* shall mean those water and/or sewer lines which are eight inches in diameter or greater.

Private utility system or *private utility lines* shall mean a utility system or utility lines, as herein defined, located on private property and neither owned nor maintained by the town.

Tap size shall mean the nominal diameter of the connection of the water line installed between a water meter assembly and the water main connected to the water utility system of Morrisville without regard to the configuration of that water assembly or ownership of the water meter assembly, service or water main.

Town shall mean the Town of Morrisville, North Carolina.

Utility system or *utility lines* shall mean and include water pipe lines and sewer pipe lines (either or both as determined by the context), and shall include all pipes, valves, valve boxes, hydrants, and other fixtures, equipment, and apparatus connected to and forming a part of the main water or sewer pipe lines and systems or both, and appliances necessary and convenient thereto. The utility lines dedicated to the town shall include only main distribution lines, valves, hydrants and other apparatus, fixtures and equipment forming a part of the lines laid in public streets, roads, highways and alleys or within the bounds of town utility or sanitary sewer easements on private property, and shall not include lines leading from mains to building connections on private property and shall not include the water or sewer lines within any residences or other privately owned building.

Water service lines and *sewer service lines* shall mean those portions of the water service and building sewer pipes which connect to the town's water and sewer mains and extend to the boundaries of public easements and rights-of-way.
(Ord. of 11-25-96)

Sec. 62-57. Connecting with water pipes.

It shall be unlawful for any person to connect any pipe or take by any means water from or interfere with the pipes of the waterworks system of the town without authorization from the director of public utilities. In reviewing requests, the director of public utilities shall consider the appropriateness of the size, location, character, and quality of all materials and connections. It shall be unlawful for any person, except town forces as directed by the director of public utilities, to operate any valve in the water distribution system of the town.
(Ord. of 11-25-96)

Sec. 62-58. Replacement of water or sewer service lines.

In the event of the paving or widening of streets, or the raising or lowering of the grade of a street, or in the installation of curbs or gutters and/or sidewalks, or in the case of the installation of new water or sewer lines initiated by the town, all water and sewer service lines may be replaced so as to meet the standards prescribed by the state plumbing code. There shall be no charge for such replacements.
(Ord. of 11-25-96)

Sec. 62-59. Responsibility for making connections.

All water and sewer services shall be installed, extended, replaced or repaired by town forces from the town's main to the property line unless otherwise permitted by the director of public utilities; provided, no such permission shall be granted for work within the corporate limits in public street rights-of-way except by licensed utility contractors. All water and sewer connections in new subdivisions shall be the responsibility of the developer and at his expense in accordance with town standards and specifications.
(Ord. of 11-25-96)

State Law References: Permits required for work in state roads, G.S. 136-93; license for public utility contractors, G.S. 87-10.

Sec. 62-60. Meter requirements; placement of meters.

A separate water meter and water and/or sewer connection is required for each lot at the time of connection with water and/or sewer service. All such meters shall be placed in the street right-of-way adjacent to the street right-of-way at such locations as the director of public utilities shall determine, provided that nothing herein shall authorize the placement of a water meter on the opposite side of the street right-of-way from the building being served. All fire hydrants maintained by the town shall be installed in the street right-of-way. All meters and fire hydrants shall conform to the standards and material specifications of the town. All water meters on three-fourths-inch and one-inch services shall be installed by town forces. All water meters larger than one inch shall be installed by a licensed utility contractor at the expense of the property owner. (Ord. of 11-25-96)

Sec. 62-61. Additional meters; common connections; allowed uses.

Additional meter locations, water connections and/or sewer connections, in compliance with the town's zoning and subdivision ordinances, if located within the jurisdiction of the town may be permitted. A common water connection, sewer connection and/or meter will be permitted to serve more than one building of the following categories as defined in the town Code.

(1) Multi-family housing developments;

(2) Townhouse developments;

(3) Unit-ownership (condominium developments);

(4) Cluster unit developments;

(5) Hotels, motels;

(6) Hospitals;

(7) Warehouses, industrial and commercial buildings (under one ownership);

(8) Schools;

(9) Mobile home parks;

(10) Shopping centers;

(11) Churches;

(12) Homes for the ill or aged, including rest and convalescent homes.
(Ord. of 11-25-96)

Sec. 62-62. Common meters and connections; requirements.

A common water connection, sewer connection and/or water meter, including a private water or sewer distribution system will be permitted to serve the above categories of buildings meeting the following minimum

requirements:

(1) The building or buildings to be served are in compliance with the town's zoning and subdivision ordinances.

(2) The building permit and plat shows a single owner and indicates that the complex of buildings will be constructed on a single lot.

(3) If one common meter is used, such meter shall be located within the street right-of-way adjacent to the street right-of-way at such locations approved by the director of public utilities.

(4) If a common water connection and/or sewer connection and more than one meter is used, the meters may be located on private property exterior to all buildings. In such cases the applicant shall be required to submit to the director of planning a site plan showing the proposed water and sewer construction. The plans shall be prepared by a registered professional engineer who shall also provide periodic inspection of the work. When the work is complete, he shall furnish the owner and the town with a certification that the work has been done properly and has been approved by him. The plan shall be approved by the director of public utilities to include size of water and sewer line, materials to be used for construction, valve locations, hydrant locations, manhole locations, meter locations and any other appurtenances that may be necessary as determined by the director of public utilities. All construction from the property line to the water meter shall be in accordance with the town standards and specifications. Construction beyond the water meter may be with materials permitted in the state plumbing code. All sewer construction within easements shall be in accordance with town standards and specifications; all other sewer construction shall be in accordance with the Town of Morrisville Plumbing Code. All construction shall be performed by either a licensed master plumber or a licensed utility contractor. The director of public utilities, fire chief or their designated representatives may enter the premises of any water or sewer user between the hours of 8:00 a.m. and 6:00 p.m. to examine the pipes and fixtures, the quantity of water being used and the manner of its use, to take meter readings and to make meter repairs.

(5) If a building utilizing a common connection for water and/or sewer be conveyed to a new owner, the town shall require a separate water and sewer connection from the building to the public main. Each development in any of the above categories shall have a fire protection plan approved by the public utilities director and the fire department prior to the installation of water connections or the extension of existing water installations.

(6) The fire protection plans shall be submitted to the director of planning for approval. The town reserves the right to require proper size water lines, proper hydrants spacing and location, and the installation of metering devices where it is determined by the town that water is being used for other than fire protection purposes. All water facilities constructed on private property for the purpose of fire fighting shall be in accordance with town standards and specifications. Construction beyond the water meter may be with material permitted in the Town of Morrisville Plumbing Code.

(7) No private water or sewer distribution system installed pursuant to this section shall be accepted

by the town board for dedication.
(Ord. of 11-25-96)

Sec. 62-63. Wells; permit required.

No well shall be installed within the town's planning jurisdiction without first securing a permit for such installation from the town's department of inspections and county health department.
(Ord. of 11-25-96)

Sec. 62-64. New or replacement water and sewer systems to be flood resistant.

(a) Any and all new or replacement water supply systems and sanitary sewer systems within floodprone areas shall be designed and constructed to minimize and eliminate infiltration of floodwaters into such systems and to minimize and eliminate discharges from such systems into floodwaters.

(b) Any and all on-site new waste disposal systems within floodprone areas shall be located, designed and constructed so as to avoid impairment of them or contamination from them during flooding.

(c) Any venting of any sanitary sewer system and/or nonwatertight manholes shall be constructed to a height at least one foot above the base flood protection elevation provided nothing herein shall prevent the construction of watertight manholes below the base flood elevation.
(Ord. of 11-25-96)

Sec. 62-65. Emergency discontinuation of service and repairs.

The repair of all pipes and fixtures on private property shall be the responsibility of the property owner or consumer. When a minor failure occurs in a pipe or fixture on private property and such failure is not corrected within 12 hours of notification of the public utilities director to the owner or person in charge, the town, for the purpose of conserving water and protecting the public, may discontinue service until the failure is corrected or enter the property and make the necessary repairs. When a major failure occurs in a line or fixture and creates the possibility of an immediate danger to the public health or safety, the town may make the necessary repairs. The work done by the town shall be limited to the necessary repair and such backfilling as needed to protect the pipe. The cost of any repairs performed by the town shall be charged to the property owner and included in his next regular periodic water bill. Failure to pay the repair bill shall be considered as a regular water bill delinquency and service may be discontinued until such amount is paid.
(Ord. of 11-25-96)

Sec. 62-66. Payment of fees and charges.

Any person using the utility system shall pay all required permits, fees, and charges as required by laws, ordinances, and resolutions.
(Ord. of 11-25-96)

Sec. 62-67. Obstructing manholes, meters, valves or fire hydrants.

It shall be unlawful for any person to obstruct, cover or restrict access to the manholes meters, valves or

fire hydrants of the utility system of the town.
(Ord. of 11-25-96)

Sec. 62-68. Injury to systems, removing, damaging, breaking, etc.

It shall be unlawful to any person to remove, damage, or interfere with any water or sewer pipes belonging to the town, or to remove, break, or injure any portion of any manhole, or any part of the water or sewerage of the utility system. Further, it shall be unlawful for any person to cut off or discontinue water service to any part of the town system without the written consent of the director of public utilities.
(Ord. of 11-25-96)

Sec. 62-69. Annexation petition required.

No person shall cause the extension of or connection to the water or sewer system(s) of the town until a valid petition for annexation has been completed and filed with the town clerk for the property to be effected by the extension or connection.
(Ord. of 11-25-96)

Sec. 62-70. Enforcement procedure.

Any person who violates any of the provisions of this article or any regulation, standard, rule or order duly adopted in furtherance of this article shall be subject to a civil penalty of $500.00 per day of continuing noncompliance. No penalty shall be assessed until the person alleged to be in violation is given notice to comply by registered mail, certified mail return receipt requested, or personal service. The notice shall set forth in detail a description of the violation for which the penalty has been invoked. For continuous violations, a second notice shall be sent ten calendar days after the original notice. If payment is not received or equitable settlement reached after 20 days after demand for payment is first made, the matter shall be referred to the town attorney for institution of a civil action in the name of the town in the appropriate division of the general court of justice of Wake County for recovery of the penalty.

Any person who alters, tampers with or bypasses a water meter or uses water and/or sewer service through a meter that has been altered, tampered with, or bypassed, shall be guilty of a misdemeanor punishable by a fine or imprisonment or both, as provided in G.S. 14-151.1.
(Ord. of 11-25-96)

Secs. 62-71--62-85. Reserved.

DIVISION 2.

WATER AND SEWER EXTENSION POLICIES

Subdivision I.

Public Extensions of the Utility System

Sec. 62-86. Assessment for extensions.

Lateral water and sewer main extensions and replacements will be made by assessment of the cost thereof against property owners to be benefited thereby in conformity with G.S. Art. 10, Ch. 160A, as amended. The director of public utilities shall determine which method of assessment authorized by G.S. 160A-218, as amended, would be most equitable to be used in an assessment roll, but any interested property owner may appeal from such determination to the town board. The town will bear the expense of resurfacing of the pavement when it is necessary.
(Ord. of 11-25-96)

Sec. 62-87. Assessment; town to share cost of oversized lines.

In the event it is necessary or desirable in the opinion of the director of public utilities to install a water main or sewer main larger than eight inches, the town will bear the cost of the difference between the size of the main required and an eight-inch main.
(Ord. of 11-25-96)

Sec. 62-88. Assessments; provisions for replacement service.

When water or sewer mains exist but are inadequate (less than eight inches) for the system and are being replaced, property should be assessed for the difference in cost between the new cost of inadequate mains and for the size installed not to exceed the cost of eight-inch mains.
(Ord. of 11-25-96)

Sec. 62-89. Assessments; corner lot provisions.

When the basis for assessment is the front footage method, lots at an intersection of streets shall be assessed as follows:

(1) If water or sewer service mains or both are installed simultaneously on both streets on which the lot abuts, assessment of the cost of the installations shall be based upon the entire frontage on one street (short side) plus the frontage on the other street (long side) in excess of 150 feet.

(2) If the lot is already served by adequate (eight-inch water or sewer) or larger size water or sewer mains in a street on which the lot abuts and a water or sewer main providing a duplicating service is installed in the other abutting street, the cost of the new installation shall be assessed against the lot to the extent that the lot abutting the street in which the new main is installed exceeds 150 feet.

(3) If water or sewer service is installed in a street abutting a corner lot, and the lot is not served by adequate (eight-inch water or sewer) or larger size water or sewer mains in the other abutting street, and the method of assessment used is the street frontage method, the cost of the installation shall be assessed against the side of the lot abutting the installation. A credit will be provided for the distance, if any, that the side of the lot abutting the street in which no improvement is made is less than 150 feet.

(4) If the lot is already served by adequate (eight-inch water or sewer) or larger size water or sewer

mains in two or more streets on which the lot abuts and a water or sewer main providing a duplicating service is installed in other abutting streets, the cost of the new installation shall not be assessed against the lot if that lot cannot be subdivided in any manner which would benefit from the installation.

(Ord. of 11-25-96)

Sec. 62-90. Assessments; provisions for duplicating service.

(a) When the basis of assessment is the front footage method and a duplicating water or sewer service is extended to a lot not at the intersection of two streets but with adequate (eight-inch water or sewer) existing service, assessment of the cost of the duplicating service shall be limited to the frontage of the lot abutting the right-of-way or easement in which the duplicating service is installed in excess of 150 feet. The exemption shall apply to lots having an existing adequate (eight-inch water or sewer) or greater size water or sewer service main or the right-of-way or easement containing an adequate size water or sewer service main crossing or touching the property subject to assessment. The exemption contained herein shall not relieve a lot from an additional assessment for the extension of an existing sewer line if the existing sewer line extends across only a part of the frontage of the lot and assessment has theretofore been made against only that part of the lot abutting on the existing line.

(b) Where one or more water or sewer lines traverse a lot or tract of land and the method of assessment used is the abutting footage on the improvement, the abutting footage for each lot, tract or parcel assessed according to the assessment roll shall not exceed the straight line distance between the beginning point and the ending point of the line or lines. Provided upon the installation of a duplication service to a traversed lot or tract of land, an exemption of 150 feet shall be allowed for the duplicating service pursuant to subsection (a) above.

(Ord. of 11-25-96)

Sec. 62-91. Additional conditions on assessments.

(a) The term "lot" as used in this section is defined as a parcel of land owned by one owner without regard to whether or not shown on any subdivision map as separate lots and without regard to how or when acquired, except that when as assessment is made on a per lot basis in a subdivision, the term "lot" shall apply to each separate subdivided lot. Provided, however, that when a lot in a subdivision is already served by a water or sewer line and the lots in the subdivision are assessed on a per lot basis, the lot so served shall not be assessed a greater amount than the amount which would be assessed against the lot on a linear foot basis after giving credit for the exemptions contained in this section.

(b) The exemptions provided for in sections 62-89 and 62-90 shall apply only if the cost of the existing water and sewer service main has been assessed against the property for which a duplicating service is provided, or if the existing water or sewer main, including major mains, was installed by a subdivider of property without cost to the town.

(Ord. of 11-25-96)

Sec. 62-92. Charge in lieu of assessment on property not assessed.

If property to be served by a water or sewer line is to be connected to a line constructed on an

assessment basis pursuant to the provisions of sections 62-86--62-91 of this Code and no assessment was made against the property for its proportionate part of the line due to ownership, jurisdictional restrictions or a finding of the town board that it was in the best interest that the assessment be held in abeyance until the property connects or is developed beyond its then current use, then either at the time of connection or presentation of a subdivision for recordation, whichever occurs first, there shall be collected, in addition to all other charges provided herein, or by other law, or ordinance, or resolution, the amount which would have been assessed against the property to be served by the line had such property been assessable at the time the line was constructed.
(Ord. of 11-25-96)

Sec. 62-93. Depth at which sewer lines to be laid; town installations.

The town shall not be obligated to install facilities to provide gravity sewer service to any floor level of any existing or proposed structure at an elevation lower than six feet below the crown of the street directly in front of the structure. Notwithstanding this provision, property owners desiring that the line be placed at a depth greater than necessary to serve a floor level six feet below the crown of the street shall be required to pay the difference in cost of laying such line at that depth and the depth at which the property owner desires the line to be laid. Such cost shall be estimated by the town based on the difference in cost for installing a line at eight feet of depth and the depth at which the property owner desires the line to be laid. Payment of the estimated cost shall be made within 30 days of the date of the demand for payment or the line will be laid at a depth as if the property owner had not requested that the line be installed at a greater depth. Notwithstanding the payment of the estimated cost of the greater depth of lines, the property owner making the payment shall still be assessed for his proportionate cost of the installation of the line consistent with the normal assessment policy.
(Ord. of 11-25-96)

Secs. 62-94--62-105. Reserved.

Subdivision II.

Extensions of Utility System made by Developers

Sec. 62-106. Application.

(a) Any person proposing to construct any extension of the town's utility system(s) shall make written application for permission to make such connections, upon forms designated by the director of public utilities. Applications will be received and acted upon in accordance with the provisions of this article. The application must contain a preliminary utility plan which shall be prepared by a professional engineer registered to practice in the State of North Carolina. The application must also be accompanied by a map made by a professional engineer or registered land surveyor authorized to practice in the state, which map shall show accurately the property to be served with water and/or sewer service, and, if within any real estate development or subdivision, the map shall show the property lines and subdivision of lots and the layout of streets therein. When the utility lines or systems are to be laid and constructed within any subdivision, such subdivision and the map thereof showing the property lines and subdivision of lots and the layout of streets must have been duly approved in accordance with this Code before the approval of any application for permission to make connections with the utility system of the town. Fees charged by North Carolina Division of Environmental Management and/or North Carolina Public Water Supply Branch for review and issuance of permits will be

paid by the developer at the time engineering plans are submitted for review.

(b) Ownership of lines constructed pursuant to this section shall be by the installing owner unless the water mains are located within public street rights-of-way and the sewer mains are located within either public street rights-of-way or sanitary sewer easements if the line so installed is required to provide gravity sewer service to an upstream parcel of land.
(Ord. of 11-25-96)

State Law References: Utility construction plans and specifications, G.S. 89C-19.

Sec. 62-107. Sizes and locations of pipes, etc.

No application will be considered by the town board under the provisions of this article until the director of public utilities shall have reviewed the sizes location, character and quality of all pipes, stubs, valves, valve boxes, hydrants and other fixtures, equipment and apparatus to be laid and constructed and to be connected with the utility systems of the town. The director of public utilities shall have authority to recommend the approval or disapproval of such application and to indicate reasonable conditions and requirements for approval, and to recommend any measures that may be requisite or necessary to protect the interests of the town or to prevent improper connections being made with the utility system of the town.
(Ord. of 11-25-96)

Sec. 62-108. Town board approval of extensions.

All utility extensions shall be subject to the approval of the town board. After action has been taken by the director of public utilities (and by the planning and zoning board, when required) and recommendations have been made to the board, the board shall consider and act upon the questions of approving or disapproving the application, and the action of the town board shall be final; provided, however, the board may indicate to the owners or promoters of any such addition, extension, subdivision, or development the requirements which must be met as a prerequisite for approving the application.
(Ord. of 11-25-96)

Sec. 62-109. Design approval.

After approval by the town board, engineering design drawings of the utility extension including pipes, service lines, valves, valve boxes, hydrants, and other fixtures, equipment and apparatus, shall be submitted to the utilities department. The design drawings shall be accompanied by any necessary state permit applications. The design drawings will then be signed and approved "For Design".
(Ord. of 11-25-96)

State Law References: North Carolina Drinking Water Act, G.S. Article 10, Chapter 130A; control of sources of water pollution; permits required, G.S. 143-215.1.

Sec. 62-110. Construction approval.

After any necessary state permits have been issued for the proposed construction, the engineering design drawings shall be resubmitted to the utilities department together with the required state permits. The tracings will then be signed and approved "For Construction" by the utilities director.
(Ord. of 11-25-96)

State Law References: North Carolina Drinking Water Act, G.S. Article 10, Chapter 130A; control of sources of water

pollution; permits required, G.S. 143-215.1.

Sec. 62-111. Easement and rights-of-way, procuring.

In the event that the utility lines are to be constructed and laid in and along any public roadway or the right-of-way thereof, or in and across lands not owned and possessed by the promoters or developers in and across lands owned and possessed by the developers or promoters but not within the current phase of development, the promoters and developers without cost or expense to the town shall procure the necessary and proper written easement or right-of-way deeds from the proper officials and agencies having control of such public roadways and from the owners of such lands granting the right and authority to construct, improve, install, remove, replace, maintain, inspect and repair and use such utility lines, together with all appurtenant facilities and equipment necessary and convenient thereto, with appropriate rights of ingress and egress over private lands, when necessary, with the right to remove and keep removed therefrom all trees, shrubs, underbrush or parts thereof and other obstructions as necessary to maintain, repair, or protect the utility system. The Town will join in the execution of such documents, when required, subject to approval of the legal instrument by the town attorney.
(Ord. of 11-25-96)

State Law References: Permits required for work in state roads, G.S. 136-93.

Sec. 62-112. Construction without cost to town.

After receiving the necessary approvals and permits for the connection of any proposed privately owned utility line or system with the public utility lines or systems of the town, the applicant or applicants at their own proper cost and expense and without unnecessary delay shall furnish, construct and lay the utility lines as approved without cost or expense to the town and the utility lines, together with all appurtenant facilities and equipment, shall be laid and constructed in approved easements and rights-of-way according to the standards and specifications, and of the character, size, quality and durability, as prescribed by the town through and by its proper officials and employees, and shall be subject to the approval of the town through its proper officers or employees.
(Ord. of 11-25-96)

Sec. 62-113. Dedication of systems.

Before any person, firm or corporation shall connect in any manner any privately owned water or sewer line or lines or system, except as provided for in sections 62-61 and 62-62, with any water or sewer line or lines of the town, including water or sewer lines dedicated to the town, such person, firm or corporation shall, by proper written instrument, in consideration of making such connection and the benefits to be derived therefrom, dedicate, give, grant and convey such water, or sewer line, or lines or system to the town; no such connection shall be made with the town water or sewer line or lines without the express approval of the town, nor shall such connection be effected except by the forces or employees of the town properly supervised, for which a charge may be made; and should any person, firm or corporation connect any privately owned water or sewer line or lines or system with any town water or sewer line or lines without first dedicating, giving, granting and conveying same to the town the act of connecting such water or sewer line or lines to the water or sewer line or lines of the town shall be deemed a dedication, gift, grant and conveyance of such water or sewer lines to the town.
(Ord. of 11-25-96)

Sec. 62-114. Inspection and approval before connecting.

Upon the completion of the construction and laying of the utility lines as authorized by this article for connection, and upon inspection and approval thereof by the town, the dedicators shall be permitted to connect such private utility lines with the utility lines and systems of the town upon the terms and conditions prescribed by this Code.
(Ord. of 11-25-96)

Sec. 62-115. Map of systems.

The dedicators shall furnish the town an accurate map showing in detail the location and dimensions of all recorded easements, mains, pipe lines, laterals, stubs, valves, valve boxes, hydrants, and other fixtures, apparatus, and equipment forming a part of the utility lines constructed and dedicated pursuant to the Code, and showing the depth of all pipes and apparatus below the ground level, which map shall be subject to the approval of the director of public utilities or other proper official of the town designated by the board, and after such map is so approved there shall be no changes to the map made without the written consent of the director of public utilities or other such officials of the town authorized to give such consent.
(Ord. of 11-25-96)

Sec. 62-116. Nonliability of town; liability insurance.

The dedicators shall have and assume all risk in the laying, installation, and construction of the utility lines and system. Dedicators of any portion of the utility system not already subject to a warranty required by this Code or dedicators installing pump stations and appurtenances shall give warranties against any material defect, equipment defect, malfunction, or failure during design conditions for a period of one year from the date of acceptance of such installation. The cost of repair, replacement or both of the subject facilities during the warranty period shall be at the sole expense of the dedicator and without cost to the town. Any repair or replacement made during the warranty period by the dedicator, his agent, or his independent contractor shall also be warranted for a one-year period beginning from the date of acceptance of the repair or replacement.
(Ord. of 11-25-96)

Sec. 62-117. Control by town; fees to town.

All connections by consumers with the utility lines constructed and dedicated pursuant to this article and all services through those lines and apparatus shall be in accordance with the laws, ordinances, rules and regulations of and applicable to the town and its department of public utilities, as now in force or as may be enacted, adopted and amended from time to time. The town shall have complete supervision and control over the lines, taps, connections and all other parts of the utility lines and system so constructed for the purpose of making any and all necessary inspections, and turning the water on and off; and for other purposes. The town shall collect all rents, fees and charges from consumers connected with such utility lines, for its sole use and benefit without compensation to the dedicators.
(Ord. of 11-25-96)

Sec. 62-118. System pressure, service level.

The town specifically does not and shall not agree or undertake or be required to furnish to the

dedicators or to any consumer along any of the utility lines constructed and dedicated pursuant to this article any stated or particular pressure of water, and the town specifically does not and shall not agree to furnish fire protection, nor shall there be any such responsibility.
(Ord. of 11-25-96)

Sec. 62-119. Discontinuance of service for nonpayment.

The town reserved the right to discontinue water and/or sewer service to any of its customers for nonpayment of duly rendered billings for said service. The town shall notify the customer of its intent to terminate service via first class mail, and shall not terminate service for a minimum of 10 days following date of mailing of that notice. Notwithstanding the town may terminate water and/or sewer service without notice if it has reason to believe that its failure to do so will significantly reduce its ability to collect the unpaid balance of the account in the future.
(Ord. of 11-25-96)

State Law References: Discontinuance of service for nonpayments, G.S. 160A-314.

Sec. 62-120. Extensions to new subdivisions; developer to be reimbursed for oversized lines.

(a) If the water and sewer lines installed under this section are over eight inches in size, and the lines or the area to be served are within the town limits, the town shall reimburse the applicant for certain costs and under certain conditions as stated herein.

(b) Such reimbursement shall be made annually on a funds-available basis, from proceeds of collection of water and sewer acreage fees by the town. Water and sewer acreage fees shall be utilized to reimburse oversize water mains and sewer mains, respectively. Payments shall begin on January 1 following the time of final inspection and acceptance of the improvement by the town, but the first installment payment shall not become payable until the second January 1, following final inspection and acceptance or contract execution, whichever is later; provided, however, that no other reimbursement contract exists for like kind of reimbursement that has not either been fully paid or exceeded its ten year life. The following installations are subject to reimbursement:

(1) Extra cost for water or sewer mains over eight inches, but not greater than 12 inches in size when required by the town and not necessary to serve the subject property. "Extra cost" shall be defined as the difference between the material only (cost of installation is not included) installed less the cost of the same pipe material for an eight-inch line.

(2) Extra cost for the excess size of water and sewer mains over 12 inches, when required by the town based upon the ratio calculated using the size installed minus 12 inches divided by the size installed. Items of work included in the calculation of the amount of reimbursement, subject to the above calculation, shall be limited to pipe, valves, manholes, fittings in place.

(Ord. of 11-25-96)

Sec. 62-121. Mains benefiting intervening property; developer to be reimbursed for non-oversize portion of lines.

If the water and sewer lines installed under this section are located such that they provide direct connection to property owned by those other than the individual installing the line, the property so benefited

shall share in the cost of the basic line (eight-inch and smaller) as follows:

(1) If the line installed by a developer, or the town, that is not assessed against property benefited by the installation, and the line installed is eight inches in diameter, or smaller, the cost of construction of the line, divided by the length of the line, divided by two shall be defined as the "front footage cost".

(2) If the line installed by a developer, or the town, that is not assessed against property benefited by the installation, and the line installed is greater than eight inches in diameter, the cost of construction of the non-oversize line shall be defined as that portion of the total cost of installation of that line remaining in excess of that portion that is reimbursable pursuant to section 62-120. The "front footage cost" shall be calculated by dividing the cost of construction of the non-oversize line by the length of the line, divided by two.

A fee-in-lieu of installation shall be paid by the owner of any property fronting on a line subject to reimbursement, pursuant to this section, at such time as that property connects to said line, regardless of the size or character of that connection. The fee-in-lieu of installation shall be calculated by multiplying the "front footage cost" times the distance that the property abuts the main. The fee-in-lieu of installation so collected shall be reimbursed to the installer of the main.

Reimbursement of fees-in-lieu collected shall be made annually. Payments shall begin on January 1 following the date of final inspection and acceptance of the improvement by the Town in an amount equal to the fees-in-lieu collected by the Town for connections to subject main, provided a reimbursement contract has been fully executed between the town and the installer of the main no later than 45 days prior to the date of first payment. The contract for reimbursement shall have a life of ten years from the January 1 following the date of final inspection and acceptance of by the town regardless of the date upon which the reimbursement contract was executed.

Additionally, if a property's entire frontage does not abut the main, the property must extend the main in a manner consistent to with any other developer's extension of service.
(Ord. of 11-25-96)

Sec. 62-122. Reimbursement procedures for extensions to new subdivisions.

(a) Following approval of plans and specifications by the town engineer, the developer shall advertise for formal sealed bids to be publicly opened at town hall for any improvement for which the town will be requested to participate in the cost after approval by the town board. The contract shall be awarded to the lowest responsible bidder who shall be required to furnish a performance bond guaranteeing fulfillment of the contract.

(b) The town engineer shall be furnished with copies of periodic estimates of completion of work by the contractor and such other records as may be requested, to determine cost of construction.

(c) Following completion, acceptable to the town engineer, of such improvements, the subdivider shall furnish the town engineer an itemized list of costs to be reimbursed by the town.

(d) The town shall pay such other costs incidental to the development of the general area which, in the opinion of the town board should properly be borne by the town.

(e) The town engineer shall prepare such calculations as are necessary to establish the amount of reimbursement eligible, and prepare a reimbursement agreement for the execution by the developer, subject to approval and execution by the town board.

(f) The town manager shall forward executed agreements to the town board in the order received, and as soon as practicable following his receipt of the agreement from the town engineer.
(Ord. of 11-25-96)

Sec. 62-123. Enforcement procedure.

(a) *Civil penalties.* Any person who violates any of the provisions of this division, or any standard or regulation, rule, or order duly adopted in furtherance of this division, or who undertakes or continues any alteration, extension, or construction of the utility system or part thereof without first obtaining a permit or written permission or who undertakes or continues any alterations, extension or construction of the utility system or part thereof, except in conformity with the terms, conditions, requirements and provisions of an approved application, plan, or both shall be subject to a civil penalty of $1,500.00 per day of continuing noncompliance. No penalty shall be assessed until the person alleged to be in violation is given notice to comply by registered mail, certified mail return receipt requested, or personal service. The notice shall set forth in detail a description of the violation for which the penalty has been invoked. For continuous violations, a second notice shall be sent ten calendar days after the original notice. If payment is not received or equitable settlement reached after 20 days after demand for payment is first made, the matter shall be referred to the town attorney for institution of a civil action in the name of the town in the appropriate division of the general court of justice of Wake County for recovery of the penalty.

(b) *Criminal penalties.* Any person who knowingly or willfully or negligently violates any of the provisions of this division, or any standard, regulation, rule or order duly adopted in furtherance of this division, or who undertakes or continues any alteration, extension or construction of the utility system or part thereof without first obtaining a permit or written permission or who undertakes or continues any alteration, extension, or construction of the utility system or part thereof, except in conformity with the terms, conditions, requirements and provisions of an approved application, plan, or both shall be guilty of a misdemeanor punishable by imprisonment and/or fine to the maximum number of days prescribed by law.

(c) *Injunctive relief.* Whenever the town board has reasonable cause to believe that any person is violating or threatening to violate any of the provisions of this division or any standards, regulation, rule or order duly adopted in furtherance of this division, or is undertaking or continuing any alteration, extension and construction of the utility system without first obtaining a permit or written permission, or is undertaking or continuing any alterations, extension, or construction of the utility system or part thereof, except in conformity with the terms, conditions, requirements and provisions of an approved application, plan, or both, the town may, either before or after the institution of any other action or proceeding authorized by this Code, institute a civil action in the name of the town for injunctive relief to restrain the violation or threatened violation. The institution of an action for injunctive relief under this subsection shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this Code.

The terms "undertakes" or "undertaking" as used in section 62-123 herein means the initiating of or continuing of or being financially responsible for any activity or phase of activity which results in the extension, construction, or alteration of any part of the utility system of the town.
(Ord. of 11-25-96)

State Law References: Criminal offenses, G.S. 14-4; G.S. 143-215.6(b).

Secs. 62-124--62-140. Reserved.

Subdivision III.

Fees

Sec. 62-141. Fees imposed on all connections.

In addition to all other charges, prescribed by ordinance or resolution now or hereafter in effect, there shall be a charge for connecting with the water system of the town, either within or without the corporate limits of the town, and there shall be a charge for connecting with the water and/or sewer system of the town. All applicable fees as set forth herein shall be paid to the town prior to the issuance of building permit or application for connection, whichever is earlier.

(1) The acreage fee charges shall be calculated on a per gross acre basis for property served by the connection. The amounts of such charges to be paid to the town prior to the time the connection is made shall be as follows:

Water acreage fee$850.00/gross acre

Sewer acreage fee850.00/gross acre

(2) Capacity replacement fees shall be calculated based upon the anticipated domestic water usage for each building, at the time they are proposed to connect to the system. The anticipated flows shall be calculated based upon the following table:

Railroad stations, bus terminals (not including food services)	5 gpd/passenger
Barber shops	50 gpd/chair
Bars, cocktail lounges (not including food services)	20 gpd/seat
Beauty shops	125 gal/booth or bowl
Bowling alleys	50 gpd/lane
Businesses (other than those listed)	25 gpd/employee
Work camps	60 gpd/person
Summer camps	60 gpd/person
Camp grounds (with water/sewer hook-ups)	100 gpd/site
Travel trailer park (with water/sewer hook-ups)	120 gpd/site
Churches (not including food service, day care and camps	3 gpd/seat

Country clubs - Resident members	60 gpd/person
- Nonresident members	20 gpd/member
Day care facilities	15 gpd/person
Factories (excluding industrial wastes)	25 gpd/person/shift
add for showers	10 gpd/person/shift
Food service facilities - Restaurants (including fast food)	40 gal/seat
or	2.7 gpd/sf of dining area whichever is greater
24-hour restaurants	50 gpd/seat
Single-service food stands (excluding fast food)	0.5 gpd/sf of total area
plus	25 gpd/employee
Hospitals	300 gpd/bed
Laundries (self-service)	500 gpd/machine
Marinas	10 gal/boat slip
with bath house	30 gal/boat slip
Motel/hotel	120 gpd/room
with cooking facilities in room	175 gpd/room
Nursing/rest homes - without laundry	60 gpd/bed
with laundry	120 gpd/bed
Offices	25 gpd/person/shift
Residential care facilities	60 gpd/person
Private residences and apartments	120 gpd/bedroom
Trucking terminals	25 gpd/person/shift
plus	5 gpd/driver
Schools with cafeteria, gym, and showers	15 gpd/student
with cafeteria only	12 gpd/student
with neither cafeteria nor showers	10 gpd/student
Boarding schools	60 gpd/person
Service stations	250 gpd/water closet or urinal
Stadiums, auditoriums, theaters	5 gpd/seat
Stores, shopping centers, malls (not including food service)	0.1 gpd/sf
Flex-space	0.033 gpd/sf

The capacity replacement fee charges shall be calculated on total anticipated flow for property served by the connection. The amounts of such charges to be paid to the town prior to the time the connection is made shall be as follows:

Water capacity fee$1.81/gpd

Sewer capacity fee2.84/gpd

(3) The following fees will be paid to the town for installations of water and/or sewer services made

by town forces:

3/4-inch water service	$ 800.00
with two three-fourths-inch meters (split)	950.00
One-inch water service	1,050.00
Four-inch sewer service	800.00
Boring or cutting across pavement	450.00

Such payments shall be tendered to the town no less than ten working days prior to the date that installation is desired.

The town will not make installation of service lines to serve properties that were, pursuant to subdivision ordinance, to be provided service by the developer.

(4) Stub fee: The fee of $50.00 will be paid for each new water or sewer service installation prior to its installation, regardless of whether the installation is performed by a private contractor or town forces, without regard to the location of the service, to defray the costs of the town including costs of inspection of said service.

(5) Limitations of acreage fees:

a. The acreage fees charged public schools shall be limited as follows:

Elementary schools: Pay fee for a maximum of four acres.

Junior high schools: Pay fee for a maximum of seven acres.

Senior high schools: Pay fee for a maximum of ten acres.

Parks and recreation facilities: Maximum of three acres for each connection up to a maximum fee based on seven acres for single park site and if a subsequent connection is made, the same criteria would be applicable with maximum fee for site based on cumulative total of seven acres.

Provided, however, that if any land so subject to the provisions of this paragraph that acreage fees are not chargeable therefor is ever conveyed to a grantee other than a school board or used for any other than school purposes, it shall be subject to the then-applicable acreage fees without limitation.

b. The owner of a tract of residential land, or of land in an area zoned for residential use which is owned, occupied, and used by a nonprofit organization as a private recreation area containing more than three acres, who desires to make one tap on to the utility

systems of the town but who has not, and does not, desire to subdivide his property into building lots at the time the tap on is made, may tap on to such systems at the rates of charge herein contained for three acres of land.

The owner of a tract of residential land or of land in an area zoned for residential use which is owned and occupied at the time of utility connection containing more than two acres, who desires to make one tap-on to the utility systems of the town but who has not and does not, desire to subdivide his property into building lots at the time the tap-on is made, may tap onto such systems at the rates charged herein containing one acres of land. A charge for services to the remaining land shall be made when services are extended to that land.

c. When no acreage fee reimbursement contract exists and an individual, developer, or subdivider has installed a major water or major sewer main that would be eligible for reimbursement, that individual, developer, or subdivider may request that the town credit the reimbursable value of that major main to payment of prevailing acreage fees, on designated parcels of land located within that acreage fee area in lieu of entering into a reimbursement agreement for said main. Prior to receiving credit for such dedication or assignment, the dedicator of the major mains shall waive in writing any right to a reimbursement contract from the Town as now or hereafter allowed.

d. The owner of a mobile restroom unit shall pay a special acreage fee of $50.00 per plumbing fixture within the unit for each water and sewer.

(Ord. of 11-25-96)

Sec. 62-142. Reserved.

Sec. 62-143. Project procedures and execution of reimbursement contract.

(a) Developers and promoters proposing to install major water mains, or major sewer mains, or both shall follow the ordinances, policies, and procedures for such installations established by the town, under the direction of the department of public utilities. Properly prepared preliminary utility plans and profiles shall be first submitted to the department of public utilities (or to the planning department for projects involving a subdivision) and thereafter shall follow the provisions of this code.

(b) Reimbursable contracts for construction shall be prepared, awarded, and performed in compliance with applicable state statutes governing public purchasing and contracts, as set out under town policies and procedures. Following completion of the project and acceptance by the town of the utility improvements, a reimbursement contract shall be prepared, submitted to the town board for approval, and then executed by the town and developer. But no reimbursement contract shall be executed until such time as main trunk or interceptor facilities which serve the acreage fee area are funded and operational.
(Ord. of 11-25-96)

Sec. 62-144. Reimbursement contract; terms.

(a) Under any reimbursement contract entered into involving a major main extension, properties

within designated acreage fee areas shall be charged the standard town acreage fee provided in sections 62-141 and 62-142 at the time service connection is applied for. As these acreage fees are collected by the town, the funds shall be assigned to the same acreage fee fund they were collected from in order to allow reimbursement of contract developers of major mains installed within that same acreage fee area. Opportunity for reimbursement payments shall be limited to a maximum period of ten years from the date of acceptance of the improvements by the town, as noted in the reimbursement contract, and no longer.

(b) If more than one extension of a major main or mains have been made, reimbursed acreage fees shall be paid to the developers making such extensions in the order that the reimbursement contracts are signed. The first contract developer must be fully reimbursed to the extent allowed by this article or the maximum ten-year limitation have elapsed before any subsequent contract developers receive any reimbursement.
(Ord. of 11-25-96)

Secs. 62-145--62-160. Reserved.

DIVISION 3.

USE OF SANITARY SEWER SYSTEM

Sec. 62-161. Purpose and policy.

The purpose of this chapter is to set forth uniform requirements for users of the wastewater collection and treatment system(s) serving the Town of Morrisville and enables the town to comply with all applicable state and federal laws, including the Clean Water Act (30 USC § 1251 et. seq.) and General Pretreatment Regulations (40 CFR 403), as amended from time to time. The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the town's wastewater system which will interfere with the operation of the system or contaminate the resulting residual solids;

(2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state, into the atmosphere, or will otherwise be incompatible with the town's wastewater system;

(3) To promote the reuse and recycling of industrial wastewater and residual solids from the town's wastewater system;

(4) To protect town's personnel who may be affected by sewage, residual solids, and effluent in the course of their employment and to protect the general public; and

(5) To provide for equitable distribution of the cost of the cost of acquisition, operation, maintenance and improvement of the town's wastewater system;

(6) To insure that the town complies with its nondischarge permit, contractual obligations to the POTW, and any other federal or state laws to which the town's wastewater system is subject.

This chapter regulates all users of the town's wastewater system through the imposition and enforcement of

general requirements for all users and issuance of wastewater discharge permits to certain users. It authorizes monitoring and enforcement activities, requires user reporting, and provides for the setting of fees for the equitable distribution of costs of the town's capacity within the POTW and program described herein. This chapter shall apply to all users of the town wastewater system, as authorized by N.C.G.S. 160A-312.
(Ord. of 11-25-96)

Sec. 62-162. Definitions.

Unless the context in which the following terms appear specifically indicates otherwise, the meaning of the terms, as used in this chapter, shall be as follows:

Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251, et seq.

Approval authority. The director of the division of environmental management of the North Carolina Department of Environment, Health and Natural Resources.

Authorized representative of the user.

(1) If the user is a corporation, authorized representative shall mean:

a. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding 25 million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a limited liability company, a partnership or sole proprietorship, an authorized representative shall mean a managing partner, general partner or the proprietor, respectively.

(3) If the user is a federal, state or local government facility, an authorized representative shall mean a director or the highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

The persons described in paragraphs (1)--(3) above may designate another person to be the authorized representative if the authorization is in writing, the authorization designates the individual or position:

a. Responsible for the overall operation of the facility from which the discharge originates or

b. Having a overall responsibility for environmental matters for the company, and the written authorization is received by the town.

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, for five days at 20 degrees centigrade, usually expressed as a concentration (e.g. mg/l).

Building sewer. A sewer conveying wastewater from the premises of a User to the POTW.

Bypass. The intentional diversion of wastestreams from any portion of a user's treatment facility.

Categorical standards. See: National categorical pretreatment standard.

Director. See: POTW director

Discharge of wastewater or discharge. The phrase "discharge of wastewater" includes discharging, spilling, leaking, placing, emptying, contributing, or dumping any wastewater into Cary's POTW.

Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized EPA official.

Grab sample. A sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

Holding tank waste. Any waste from holding tanks, including but not limited to such holding tanks as those of vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump trucks.

Indirect discharge. The discharge of nondomestic wastewater into the POTW from any source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. § 1317), including holding tank waste.

Industrial user. Any user that is a source of indirect discharge.

Interference. The inhibition, or disruption of the POTW, its treatment processes or operations, or its residual solids processes, use or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or Nondischarge permit or prevents residuals solids use or disposal in compliance with applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage residual solids use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. § 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. § 6901, et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state Residual Solids management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Medical waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National categorical pretreatment standard or categorical standard. Any regulation containing

pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of Users and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405--471, as amended from time to time.

National pollution discharge elimination system permit or *NPDES permit.* A permit issued pursuant to section 402 of the Act (33 U.S.C. § 1342), or pursuant to N.C.G.S. 143-215.1 by the State of North Carolina under delegation from EPA.

National prohibited discharge standard or prohibited discharge standard. Absolute prohibitions against the discharge of certain substances. These prohibitions appear in section 62-163 of this chapter and are developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

New source.

(1) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307(c) provided that:

a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification of the existing source rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (1)(b) or (1)(c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) For purposes of this definition, construction of a new source has commenced if the owner or operator has: Begun, or caused to begin, as part of a continuous on-site construction program:

a. Any placement, assembly, or installation of facilities or equipment; or

b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

c. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

Noncontact cooling water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Nondischarge permit. A disposal system permit issued by the state pursuant to N.C.G.S. 143-215.1.

Pass through. A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or nondischarge permit, or a downstream water quality standard.

Person. Any individual, partnership, copartnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or its legal representatives, agents or assigns. This definition includes all federal, state, and local government entities and includes persons acting in a representative or fiduciary capacity.

pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant. Any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage residual solids, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor)

POTW. See: Publicly owned treatment works.

POTW director or director. The Town of Cary Utilities Department Director or his or her designee. Unless specifically provided otherwise, the utility plants manager for the Town of Cary may act in the absence of the director, and in the absence of both the director and the utility plants manager, the industrial pretreatment inspector for the Town of Cary may act for the director.

All actions to be taken by the POTW director, as stated within this division, shall be routed through the director of public utilities of the Town of Morrisville, as provided for in section 62-36. The POTW director shall not be authorized to have direct contact, correspondence, or enforcement authority with or upon any customer of the Town of Morrisville. Notwithstanding, the director of public utilities of the Town of Morrisville shall cooperate with the POTW director in assuring that the intent of this division is effective, efficiently and uniformly enforced.

POTW treatment plant. That portion of the POTW designed to provide treatment to wastewater.

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants, unless allowed by an applicable pretreatment standard.

Pretreatment program. The program for the control of pollutants introduced into the POTW from nondomestic sources which was developed by the town in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.

Pretreatment requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

Pretreatment standards. Pretreatment standards mean prohibited discharge standards, categorical standards, and local limits, including user-specific local limits contained in a wastewater discharge permit.

Prohibited discharge standard. See: National prohibited discharge standard.

Publicly owned treatment works (POTW) or municipal wastewater system (sometimes also "system"). A treatment works as defined by section 212 of the Act, (33 U.S.C. § 1292) which is owned by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal wastewater or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances and appurtenances if they convey wastewater to the POTW treatment plant. For the purposes of this chapter, "POTW" shall also include any sewers, pipes and other conveyances and appurtenances that convey wastewaters to the POTW from persons located outside the town who are, by contract or agreement with the town, or in any other way, users of the town's POTW.

Residual solids. The settled, thickened, biologically reduced semisolid residue containing material removed during the treatment process of municipal wastewater. Residual solids are also known as sludge.

Severe property damage. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Significant industrial user or *SIU.* Any industrial user of the POTW who:

(1) Has an average daily process wastewater flow of 25,000 gallons or more; or

(2) Contributes more than five percent of any design or treatment capacity (i.e., allowable pollutant load) of the town's POTW receiving the indirect discharge; or

(3) Is required to meet a national categorical pretreatment standard; or

(4) Is found by the town, the division of environmental management or the EPA to have the

potential, either singly or in combination with other contributing industrial users, for an adverse impact on the POTW, its operations or effluent, the quality of its residual solids, or its compliance with any pretreatment standards or requirements.

Significant noncompliance or *reportable noncompliance.* A status of user noncompliance consisting of any of the following:

(1) Any of the following violations of pretreatment standards:

a. Chronic violations. Sixty-six percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period;

b. Technical review criteria (TRC) violations. TRC violations exist if 33 percent or more of the measurements are equal to or exceed the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs:

For conventional pollutants, BOD, TSS, fats, oil & grease TRC = 1.4 For all other pollutants TRC = 1.2;

c. Any other violation(s) of a wastewater discharge limit (average or daily maximum) or condition that the director believes has caused, alone or in combination with other discharges, interference or pass-through; or endangered the health of the POTW personnel, other town employees, or the public;

d. Any discharge of a pollutant that has caused imminent endangerment to human health or welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(2) Violations of compliance schedule milestones contained in a wastewater discharge permit or enforcement order, for starting construction, completing construction, or attaining final compliance when such failure to meet schedule milestones exists for 90 days or more after the schedule date;

(3) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days of the due date;

(4) Failure to accurately report noncompliance;

(5) Any other violation or group of violations that the director considers to be significant.

Sludge. See: Residual solids.

Slug load. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards contained in section 62-163 of this chapter.

Standard industrial classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

Stormwater. Any flow occurring during or following any form of natural precipitation and resulting from such precipitation.

Suspended solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

User. Any person, including those located outside the jurisdictional limits of the town, who contributes, causes or permits the contribution or discharge of wastewater into the POTW, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater.

Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities, and institutions, together with any ground water, surface water and stormwater that may be present, whether treated or untreated, which are discharged to, contributed into, or otherwise permitted to enter the POTW.

Wastewater discharge permit or *wastewater permit.* A permit as set forth in section 62-164(b) of this chapter.

Waters of the state. All streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

This chapter is gender neutral and the masculine gender shall include the feminine and the converse thereof. "Shall" is mandatory; "may" is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

The following abbreviations, when used in this chapter, shall have the designated meanings:

BOD	-Biochemical Oxygen Demand
CFR	-Code of Federal Regulations
COD	-Chemical Oxygen Demand
EPA	-Environmental Protection Agency
gpd	-gallons per day
l	-Liter
mg	-Milligrams
mg/l	-Milligrams per liter
N.C.G.S.	-North Carolina General Statutes

NPDES	-National Pollutant Discharge Elimination System
O & M	-Operation and Maintenance
POTW	-Publicly-Owned Treatment Works
RCRA	-Resource Conservation and Recovery Act
SIC	-Standard Industrial Classification
SWDA	-Solid Waste Disposal Act
TSS	-Total Suspended Solids
TKN	-Total Kjeldahl Nitrogen
U.S.C.	-United States Code

(Ord. of 11-25-96)

Sec. 62-163. Prohibited discharge standards.

Unless specifically provided otherwise, the prohibited discharge standards set forth in this section shall apply to all users of the POTW, including significant industrial users and users subject to national, state or local pretreatment standards or requirements.

(1) *General prohibitions.* No user shall discharge wastewater into the POTW, directly or indirectly, which causes interference or pass through.

(2) *Specific prohibitions.* No user shall discharge wastewater into the POTW that contains, or has the characteristics of the following:

a. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less that 140°F (60°C) using the test methods specified in 40 CFR 261.21, as amended from time to time.

b. Solid or viscous substances which may cause obstruction of the flow in a sanitary sewer or the POTW resulting in interference. This includes but is not limited to: grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, and wood.

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

d. Any wastewater having a pH less than 5.0 or more than 10.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.

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

f. Any wastewater having a temperature that is greater than 150°F (66°C), or that will inhibit biological activity in the POTW treatment plant resulting in interference. In no case shall a user contribute wastewater, the temperature of which acting alone or in conjunction with other wastewater, causes the temperature at the introduction into the POTW treatment plant to exceed 104°F (40°C).

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

h. Any trucked or hauled pollutants or wastewater, unless it is with the approval of the director, and then only at discharge points designated by the director in accordance with section 62-163(11) of this chapter.

i. Any noxious or malodorous gases, solids, liquids or other wastewaters, which alone or by interaction with other wastes is sufficient to create a public nuisance or hazard to life or is sufficient to prevent entry by authorized town personnel into the sanitary sewer collection system for maintenance or repair.

j. Any substance which may cause the POTW effluent or any other product of the POTW such as residues, residual solids, or scums, to be unsuitable for reclamation and reuse or which interferes with the reclamation process. In no case, shall a substance discharged or contributed to the POTW cause the POTW to be in noncompliance with residual solids use or disposal criteria, including but not limited to guidelines, regulations, or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria, guidelines, regulations, or permits applicable to the residual solids management method being used.

k. Any substance which will cause the POTW to violate its NPDES or nondischarge permit or the receiving stream water quality standards.

l. Any wastewater which imparts color which cannot be removed by the treatment process (including, but not limited to, dye wastes and vegetable tanning solutions) and which imparts sufficient color to the POTW effluent to render the waters injurious to public health or secondary recreation or aquatic life and wildlife or which adversely affect the palatability of fish or their aesthetic quality or which impairs the receiving waters for any designated use.

m. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW director in compliance with applicable state and federal regulations.

n. Any wastewater which causes a hazard to human life or creates a public nuisance.

o. Stormwater, surface water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, ground

water from any source, and unpolluted industrial wastewater, unless specifically authorized by the director.

p. Fats, oils, or greases of animal or vegetable origin in concentrations greater than that determined by the director, or a state recognized environmental regulatory agency, to cause sewer pipe blockages or in amounts causing adverse consequential accumulation in sewer pipes, resulting in sewer blockage.

q. Any medical wastes, except as specifically authorized by the director in a wastewater discharge permit.

r. Any solids residuals, screenings, or other residues from the pretreatment of industrial wastes.

s. Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the POTW.

t. Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the director.

u. Any wastewater causing the POTW effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B.0200, as amended from time to time.

v. Wastewater which, acting alone or in conjunction with wastewater from other sources, causes the POTW's effluent to fail a toxicity test.

w. Recognizable portions of the human or animal anatomy.

x. Any wastes containing detergents, surfaces active agents, or other substances which may cause excessive foaming in the POTW.

y. Any wastewater that has two successive readings on an explosion hazard meter of more than five percent or any single reading on such meter more than ten percent of the lower explosive limit (LEL) of the meter. Such readings may be taken at the point of discharge into the system or at any point in the system.

(3) *Storage of substances/action by director*. Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the user's pretreatment facility before connecting with the POTW.

When the director determines that a user is contributing or discharging to the POTW any pollutant or wastewater which causes interference or pass through or is contributing or discharging any of the pollutants, substances or wastewater that violate the prohibitions set forth in subsection (2) above, the director may:

a. Advise the user of the potential impact of the contribution on the POTW in accordance with section 62-169 of this chapter; and

b. Take appropriate action, in accordance with section 62-165 of this chapter, requiring such user to protect the POTW and sewer collection system from interference, pass through, blockages, and structural or mechanical failure.

(4) *National categorical pretreatment standards.* Users subject to national categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471, as amended from time to time, which are incorporated herein by reference.

a. Where a categorical standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c), as amended from time to time.

b. When wastewater subject to a categorical standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e), as amended from time to time.

c. A user may obtain a variance from a categorical standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA in developing the categorical standard.

d. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(5) *Local limits.* To implement the general and specific discharge prohibitions listed in this chapter, user-specific local limits will be developed ensuring that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern for each industrial user. Unless specific local limits for a given parameter or pollutant are contained in a wastewater discharge permit, the following limits apply to all users:

250 mg/l	BOD
250 mg/l	TSS
40 mg/l	TKN
0.0046 mg/l	arsenic
0.0057 mg/l	cadmium
0.072 mg/l	copper
0.040 mg/l	cyanide
0.0348 mg/l	lead
0.00027 mg/l	mercury
0.0237 mg/l	nickel
0.0190 mg/l	silver
0.0279 mg/l	total chromium
0.1395 mg/l	zinc

User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and shall be considered pretreatment standards. The director may impose mass limits in addition to, or in place of, the concentration-based limits set forth above.

Additionally, domestic sewage limits for parameters other than those listed above may be established by the director and shall be based on either actually measured local domestic sewage levels or literature values.

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

(7) *Right of revision.* The town reserves the right to establish and amend standards, including limitations and requirements, which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives set forth in section 62-161 of this chapter or the general and specific prohibitions in section 62-163 of this chapter, as is allowed by 40 CFR 403.4.

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

(9) *Pretreatment of wastewater.*

a. Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and wastewater permits issued under section 62-165(b) of this chapter and users shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in section 62-163 of this chapter within the time limitations specified by the EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance (pretreatment facilities) shall be provided, operated, and maintained at the user's expense. Detailed plans showing the users pretreatment facilities and operating procedures shall be submitted to the town for review, and shall be approved by the director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter. Any subsequent changes in the pretreatment facility or its method of operation shall be reported to, and be approved by, the director prior to the user's initiation of the changes.

b. Additional pretreatment measures.

1. Whenever the director deems it necessary, the director may: require users to restrict their discharge during peak flow periods; designate that certain wastewater be discharged only into specific sewers; relocate and/or consolidate points of

discharge; separate sewage wastestreams from industrial wastestreams; and require such other conditions as may be necessary to protect the POTW or to determine the user's compliance with the requirements of this chapter.

2. The director may require any person discharging into the POTW to install and maintain on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. The director may issue a wastewater discharge permit solely for flow equalization.

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

4. Users with the potential to discharge flammable substances may be required to install and maintain one or more approved combustible gas detection meters.

(10) *Accidental discharge/slug control plan.* At least once every two years the director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the director may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

a. Description of discharge practices, including nonroutine batch discharges;

b. Description of stored chemicals;

c. Procedures for immediately notifying the director of any accidental or slug discharge, as required by section 62-166(f) of this chapter:

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

(11) *Hauled wastewater.*

a. Septic tank waste may not be discharged into the POTW unless the director has given his approval for the discharge. If such approval is granted, septic tank waste may be discharged into the POTW only at locations designated by the director, and only at such times as are established by the director. Such septic tank waste shall conform to the

requirements of section 62-163 of this chapter and any other requirement established by the town. The director may require septic tanks waste haulers to obtain wastewater discharge permits.

b. The director may prohibit the discharge into the POTW of hauled industrial waste. If the director permits such discharge, the director shall require haulers of industrial waste to obtain wastewater discharge permits. The director may also require the generators of hauled industrial waste to obtain wastewater discharge permits. The discharge of hauled industrial waste is subject to all the requirements of this chapter.

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

d. Industrial waste haulers shall provide a waste-tracking form for every load. The information provided on the form shall include, at a minimum, the following:

1. The name and address of the industrial waste hauler;

2. The permit number of the industrial waste hauler;

3. The permit number of the industrial waste generator, if there is one;

4. The waste hauler truck identification;

5. Names and addresses of sources of all waste;

6. Identification of the type of industry that is the source of the waste; and

7. Volume and characteristics of the waste, including all known or suspected waste constituents and whether any wastes are RCRA hazardous wastes.

(Ord. of 11-25-96)

Sec. 62-163.5. Control of introduction of fats, oils and greases into sanitary sewer system.

(a) *Scope and purpose.* [The purpose of this section is] to aid in the prevention of sanitary sewer blockages and obstructions from contributions and accumulation of fats, oils, and greases into said sewer system from industrial or commercial establishments, particularly food preparation and serving facilities.

(b) *Definitions.* [For the purposes of this section, the following words, terms and phrases shall have the meanings set out in this subsection (b).]

(1) *Fats, oils, and greases.* Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and

measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases".

(2) *Grease trap or interceptor.* A device for separating and retaining waterborne greases and grease complexes prior to the wastewater exiting the trap and entering the sanitary sewer collection and treatment system. These devices also serve to collect settlable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection and treatment system. Grease traps and interceptors are sometimes referred to herein as "grease interceptors".

(3) *Cooking establishments.* Those establishments primarily engaged in activities of preparing, serving, or otherwise making available for consumption foodstuffs and that use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sauteing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing.

(4) *Non-cooking establishments.* Those establishments primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuffs preparation and serving establishments.

(5) *Minimum design capability.* The design features of a grease interceptor and its ability or volume required to effectively intercept and retain greases from grease-laden wastewaters discharged to the public sanitary sewer.

(6) *User.* Any person, including those located outside the jurisdictional limits of the town, who contributes, causes or permits the contribution or discharge of wastewater into the POTW, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater.

(c) *Grease interceptor maintenance, record keeping, and grease removal.*

(1) Grease interceptors shall be installed by users as required by the town engineer or his designee. Grease interceptors shall be installed at the user's expense, when such user operates a cooking establishment. Grease interceptors may also be required in non-cooking or cold dairy and frozen foodstuffs establishments and other industrial or commercial establishments when they are deemed necessary by the town engineer for the proper handling of liquid wastes containing grease. No user shall allow wastewater discharge concentration from subject grease interceptor to exceed 325 milligrams per liter, as identified by method EPA Method 1664 or 275 milligrams per liter, as identified by EPA method 413. All grease interceptors shall be of a type, design, and capacity approved by the town engineer or his designee and shall be readily and easily accessible for user cleaning and town inspection. All such grease interceptors shall be serviced and emptied of accumulated waste content as required in order to maintain minimum design capability or effective volume of the grease interceptor, but not less often than every 30 days. Users who are required to pass water through a grease interceptor shall:

a. Provide for a minimum hydraulic retention time of 24 minutes at actual peak flow or 12 minutes at the calculated theoretical peak flow rate as predicted by the Uniform Plumbing Code fixture criteria, between the influent and effluent baffles with 20 percent of the total volume of the grease interceptor being allowed for sludge to settle and accumulate, identified hereafter as a "sludge pocket".

b. Remove any accumulated grease cap and sludge pocket as required, but at intervals of not longer than 30 days at the users expense. Grease interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle into this pocket and thereby reduce the effective volume of the grease interceptor.

c. Accept the following conditions: If any skimmed or pumped wastes or other materials removed from grease interceptor are treated in any fashion onsite and reintroduced back into the grease interceptor as an activity of and after said onsite treatment, the user shall be responsible for the attainment of established grease numerical limit consistent with and contained in subsection (c)(1) on all discharges of wastewater from said grease interceptor into the town sanitary sewer collection system.

d. Operate the grease interceptor in a manner so as to maintain said device such that attainment of the grease limit is consistently achieved. "Consistent" shall mean any wastewater sample taken from said grease interceptor shall be subject to terms of numerical limit attainment described in subsection (c)(1). If an establishment desires, because of documented space constraints, an alternate to an out-of-building grease interceptor, the request for an alternative location shall contain the following information:

    1. Location of town sewer main and easement in relation to available exterior space outside building.

    2. Existing plumbing at or in a site that uses common plumbing for all services at that site.

e. Understand and agree that: The use of biological additives as a grease degradation agent is conditionally permissible, upon prior written approval by the town engineer. Any establishment using this method of grease abatement shall maintain the trap or interceptor in such a manner that attainment of the grease wastewater discharge limit, as measured from the trap's outlet, is consistently achieved.

f. Understand and agree that: The use of automatic grease removal systems is conditionally permissible, upon prior written approval by the town engineer, the building codes administrator, and the Wake County Department of Health. Any establishment using this equipment shall operate the system in such a manner that attainment of the grease wastewater discharge limit, as measured from the unit's outlet, is consistently achieved.

g. Understand and agree that: The town engineer reserves the right to make determinations

of grease interceptor adequacy and need, based on review of all relevant information regarding grease interceptor performance, facility site and building plan review and to require repairs to, or modification or replacement of such traps.

(2) The user shall maintain a written record of trap maintenance for three years. All such records will be available for inspection by the town at all times.

(3) No non-grease laden sources are allowed to be connected to sewer lines intended for grease interceptor service.

(4) Except as provided herein, for a period of one year following adoption of this section, although installation of grease interceptors will be required to be installed, no enforcement actions will be taken under this section for failure to achieve limits on grease discharges from grease interceptors. If, during this one-year period an obstruction of a town sewer main(s) occurs that causes a sewer overflow to the extent that an impact on the environment is realized and that said overflow or failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to an accumulation of grease in the town's sewer main(s), the town will take appropriate enforcement actions, as stipulated in this chapter, against the generator or contributor of such grease.

(5) Access manholes, with a minimum diameter of 24 inches, shall be provided over each chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.

(Ord. No. 99-48, §§ A--C, 8-9-99)

Sec. 62-164. Fees.

(a) [*Purpose.*] It is the purpose of this chapter to provide for the recovery from users of the town's wastewater disposal system of costs of the POTW and for the implementation of the program provided for herein. The applicable charges or fees shall be set forth in the town's schedule of charges and fees.

(b) *User charges.* A user charge shall be levied on, and paid by, all users.

(1) The user charge shall reflect, at a minimum, the cost to the town of debt service, and operation and maintenance costs (including but not limited to replacement costs) of the POTW.

(2) Each user shall pay its proportionate share of cost based on volume of user's flow.

(3) The town manager of the Town of Cary shall review annually the sewage contributions of users, the total costs of debt service and operation and maintenance costs of the POTW (including but not limited to replacement costs) and shall make recommendations to the town council for adjustments in the schedule of charges and fees as necessary.

(c) *Surcharges.* All industrial users of the POTW are subject to industrial waste surcharges on all discharges which exceed the following levels:

Parameter	Levels
BOD5	>250 mg/l
TSS	>250 mg/l
COD	>500 mg/l
NH3-N	>25 mg/l
PO4-P	>7 mg/l

The surcharge shall be based upon the mass emission rate (in pounds per day) discharged above the levels listed above. The amount charged per pound of excess shall be set forth in the schedule of charges and fees. The imposition or payment of the surcharge shall in no way be construed to constitute an authorization for the user to discharge in excess of the levels set forth above, nor shall it be construed to constitute a waiver of the town's right to strictly enforce the provisions of this chapter.

(d) *Charge and surcharge determination.*

(1) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:

a. Metered water consumption as shown in the records of meter readings maintained by the town; or

b. If required by the director, or if desired by the user with the consent of the director, other flow measuring devices ("alternate metering devices") which measure the actual volume of wastewater discharged to the sewer. Such "alternate metering devices" shall be accessible and safely located, and shall be installed in accordance with plans approved by the town. The alternate metering device shall be installed and maintained at the user's expense according to arrangements that may be made with the town. Certified calibration of the metering device shall be required at least every three months. More frequent calibrations may be required by the director.

c. Where any user procures all or part of user's water supply from sources other than the town, the user shall install and maintain at user's own expense a flow measuring device of a type approved by the town.

(e) *Surcharge sampling.* The character and concentration of wastewater used in determining surcharges shall be determined by samples collected and analyzed by the town or by state certified contract laboratory personnel performing permitted self-monitoring activities. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136 by a state certified laboratory.

(f) *Determination binding.* The determination by the director of the character and concentration the constituents of wastewater discharged shall be binding on the user as a basis for all charges and surcharges.

(g) *Pretreatment program administration charges.* The schedule of charges and fees adopted by the town may include charges and fees for:

(1) Reimbursement of costs of setting up and operating the pretreatment program;

(2) Monitoring, inspections and surveillance procedures;

(3) Reviewing slug control plans, including accidental and slug load discharge procedures and construction plans and specifications;

(4) Permitting; and,

(5) Other fees as the town may deem necessary to carry out the requirements of the pretreatment program.

The schedule of charges and fees will be set forth in the Town of Morrisville's Annual Budget Ordinance. (Ord. of 11-25-96)

Sec. 62-165. Wastewater discharge permit, application and issuance.

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

(b) *Wastewater discharge permits.* All significant industrial users shall obtain a significant industrial user wastewater discharge permit ("significant industrial user permit" or "SIU permit") prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the director's determination. Industrial users who do not fit the significant industrial user criteria may, at the discretion of the director, be required to obtain a wastewater discharge permit for nonsignificant industrial users (Non SIU permit). Both SIU permits and Non SIU permits are referred to as wastewater discharge permits or permits.

(1) *Significant industrial user determination.* All persons proposing to discharge nondomestic wastewater, or proposing to change the volume or characteristics of an existing discharge of nondomestic wastewater, shall request from the director a significant industrial user determination. If the director determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that the user file a SIU permit application.

(2) *Wastewater discharge permit application.* Users required to obtain a wastewater discharge permit, including a SIU permit, shall complete and file with the town an application in the form prescribed by the director, which shall be accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Users required to renew a wastewater discharge permit shall renew such permit in accordance with the procedures for renewal described in the permit. Significant industrial users shall apply for a SIU permit within 90 days of receiving notification of the director's determination in subsection (b)(1) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following

information:

a. Name, address, and location, (if different from the address);

b. Standard industrial classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;

c. Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in section 62-163 of this chapter and any of the priority pollutants (section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a state certified analytical laboratory, and any other pollutant of concern to the POTW. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and as contained in 40 CFR, Part 136, as amended;

d. Time and duration of discharge;

e. Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;

f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow, and appurtenances by the size, location and elevation;

g. Description of activities, facilities and plant processes on the premises, including all materials which are, or could be, discharged;

h. Where known, the nature and concentration of any pollutants in the discharge which are limited by any town, state, or federal pretreatment standards and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

i. If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

    1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine months.

    2. No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a written progress report to the director which

shall include, at a minimum, a statement as to whether or not the user complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between progress reports to the director.

j. Each product produced by type, amount, process or processes and rate of production;

k. Type and amount of raw materials processed (average and maximum per day);

l. Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

m. If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15 NCAC 2H.0908(a), as outlined in section 62-166 of this chapter.

n. Any other information as may be deemed by the director to be necessary to evaluate the permit application.

(3) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and must contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(4) *Application review and evaluation.*

a. The director is authorized to accept applications for the town and may refer all applications to the POTW staff for review and evaluation.

b. Within 30 days of receipt, the director shall acknowledge and accept the complete application, or if the application is not complete, the director shall return the application to the applicant with a statement as to what additional information is required.

(5) *Tentative determination and draft permit.*

a. The POTW staff shall review the application and shall conduct an on-site inspection of the significant industrial user, including any pretreatment facility. An on-site inspection of other users, including pretreatment facilities, may also be conducted. The POTW staff shall prepare a written evaluation and tentative determination to issue or deny the wastewater discharge permit.

b. If the staff's tentative determination in subsection (5)(a) above is to issue the permit, the following additional determinations shall be made in writing:

1. Proposed discharge limitations for those pollutants proposed to be limited;

2. A proposed schedule of compliance, including interim dates and requirements for meeting the proposed limitations; and

3. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

c. The POTW staff shall organize the determinations made pursuant to paragraphs (5)(a) and (5)(b) above along with the town's general permit conditions into a wastewater discharge permit.

(6) *Permit synopsis.* A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:

a. A sketch and detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points;

b. A quantitative description of the discharge described in the application which includes at least the following:

1. The rate or frequency of the proposed discharge, and if the discharge is continuous, the average daily flow;

2. The actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and,

3. The basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.

(7) *Final action on wastewater discharge permit applications.*

a. The director shall take final action on all applications and shall notify the applicants of the action taken not later than 90 days following receipt of a complete application.

b. The director is authorized to take any one or more of the following actions:

1. Issue a wastewater discharge permit containing such conditions as are necessary to effectuate the purposes of this chapter and N.C.G.S. 143-215.1;

2. Issue a wastewater discharge permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;

3. Modify any permit upon not less than 60 days notice and in accordance with section 62-165 of this chapter;

4. Revoke any permit pursuant to section 62-169 of this chapter;

5. Suspend a permit pursuant to section 62-169 of this chapter;

6. Deny a permit application when in the opinion of the director such a discharge may cause or contribute to pass-through or interference or where necessary to effectuate the purposes of N.C.G.S. 143-215.1.

(8) *Adjudicatory hearings.*

a. Initial hearings. An applicant who receives notice that an application for a permit has been denied; an applicant who receives notice that a permit, has been granted subject to conditions the applicant deems unacceptable; a user who receives notice of an assessment of a civil penalty under section 62-169; and a user who receives notice of the issuance of an administrative order under section 62-169(a)(4) all of whom are hereafter referred to as "Aggrieved Applicant or User"):, shall have the right, upon filing written demand, to a hearing before an unbiased hearing officer designated by the director. In the absence of a designation by the director, the hearing officer may be the town manager or assistant town manager. Such written demand for a hearing shall identify with particularity:

1. The aggrieved applicant or user contesting the action;

2. The specific permit provisions or conditions or other issues contested;

3. The reasons for the objection; and

4. Any alternate provisions, conditions or terms the aggrieved applicant or user proposes.

The written demand for a hearing shall be filed with the director within 30 days of the date of the notice of the action that is being contested. Unless such written demand is filed within the time specified herein, the contested action shall be final and binding.

The hearing officer shall make a final decision on the contested action within 45 days of the receipt of the written demand for a hearing. The director shall serve a copy of the hearing officer's decision (notice of the decision) on the aggrieved applicant or user in accordance with section 62-172.

i. New permits. Upon appeal, including judicial review in the general courts

of justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit shall be stayed and the permit shall not be in effect until either the conclusion of the appeals process or until the parties reach a mutually agreeable resolution.

ii. Renewed permits. Upon appeal, judicial review in the general courts of justice, of the terms or conditions of a renewed permit, the terms and conditions of the old permit shall remain in effect until either the conclusion of the appeals process or until the parties reach a mutual resolution, provided however that if an application for a renewed permit has been denied, it shall be treated as a new permit.

b. Final appeal hearings. Any decision of a hearing officer made as a result of an initial hearing held under section 62-165(b)(8)(a) above may be appealed to the town council of the Town of Morrisville by filing a written "Notice of Appeal of Hearing Officer's Decision" with the Morrisville Town Clerk within ten days of the date of service of the notice of the decision. Hearings held under this section shall be conducted in accordance with town council of the Town of Morrisville administrative hearing procedures. Failure to file written demand within the time specified herein shall bar further appeal. The town council shall make a final decision on the appeal within 90 days of the date the appeal is filed and shall serve a written copy of its decision on the aggrieved applicant or user in accordance with section 62-172.

c. Official record. When a final decision is issued under section 62-165(b)(8)b above, the town council shall prepare an official record of the case that includes:

1. All notices, motions, and other like pleadings;

2. A copy of all documentary evidence introduced;

3. A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.

4. A copy of the final decision of the town council.

d. Judicial review. Any person against whom a final order or decision of the town council is entered pursuant to the hearing conducted under section 62-165(b)(8)b above may seek judicial review of the order or decision, by filing a written petition within 30 days after the date of the notice of the decision, but not thereafter, with the Superior Court of Wake County. A copy of the petition shall be served on the town, in accordance with the rules of civil procedure. Within 30 days after receipt of the copy of the petition for judicial review, the town council shall transmit to the reviewing court the original official record, or a certified copy thereof.

(9) *Permit modification.*

a. Procedural requirements. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:

1. Changes in the ownership of the discharge when no other change in the permit is indicated.

2. A single modification of any compliance schedule not in excess of four months.

3. Modification of compliance schedules in permits for new source's construction schedules where the new source will not begin to discharge until the discharge characteristics can meet the requirements of this chapter.

Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

b. Categorical standards revisions. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user subject to a national categorical pretreatment standard has not previously submitted an application for a wastewater discharge permit as required by section 62-165(b), the user shall apply for a wastewater discharge permit within 180 days of the promulgation of the applicable national categorical pretreatment standard.

c. User request for modification. A request for a modification by the user shall constitute a waiver of the 60-day notice for modifications required by N.C.G.S. 143-215.1(b).

(10) *Permit conditions.*

a. The director shall have the authority to grant a permit with such conditions attached as the director believes necessary to achieve the purpose of this chapter and N.C.G.S. 143-215.1. Permit conditions shall include the following:

1. A statement of duration (in no case more than five years);

2. A statement of nontransferability;

3. Applicable effluent limits based on categorical standards or local limits or both;

4. Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling locations, sampling frequency, and sampling type based on federal, state, and local law.

5. Notification requirements for slug loads; and

6. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule;

b. In addition, at the discretion of the director, wastewater discharge permits may contain other conditions which may include, but are not limited to, the following:

1. Limits on the average and maximum rate of discharge, and requirements for flow regulation and equalization;

2. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;

3. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, and similar requirements designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;

4. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

5. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

6. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system;

7. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

8. Specifications for a monitoring program which may include sampling locations, sampling frequency, number, types, and standards for tests, and reporting schedules;

9. Requirements for immediate reporting of any instance of noncompliance and for automatic and resampling and reporting within 30 days, where self-monitoring indicates a violation(s);

10. Compliance schedules for meeting pretreatment standards and requirements;

11. Requirements for submission of periodic self-monitoring of special notification reports;

12. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section 62-166(m) and affording the

director or his representatives, access thereto;

13. Requirements for prior notification and approval by the director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction into the POTW;

14. Requirements for the prior notification and approval by the director of any change in the manufacturing and/or pretreatment process used by the permittee;

15. Requirements for immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the POTW;

16. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective after the issuance of the permit; and

17. Other conditions as deemed appropriate by the director to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

18. Permit duration. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issue for a period of time that is less than a year and may be drafted to expire on a specific date.

(11) *Permit transfer*. Wastewater discharge permits shall be issued to a specific user for a specific operation. A wastewater discharge permit shall not be assigned or transferred or sold to any person including a new owner or new user, nor shall it be assigned or transferred to a different premises, or to a new or changed operation.

(12) *Permit reissuance.* A user shall apply for permit reissuance by submitting a complete permit application in accordance with section 62-165(b) at least 180 days prior to the expiration of the existing permit.

(Ord. of 11-25-96)

Sec. 62-166. Reporting requirements.

(a) *Baseline monitoring reports.*

(1) Within 180 days after either the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, users subject to a categorical pretreatment standard who are currently discharging to, or scheduled to discharge to, the POTW shall submit to the director a report which contains the information listed in subsections (2)(a)--(h) below. At least 90 days prior to commencement of their discharge, new sources, and sources that become subject to categorical pretreatment standards subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information listed in subsections (2)(a)--(h) below. A

new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Users described above shall submit the information set forth below.

a. Identifying information. The name and address of the facility, including the name of the operator and owner;

b. Environmental permits. A list of any environmental control permits held by or for the facility;

c. Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;

d. Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

e. Measurement of pollutants.

1. The categorical pretreatment standards applicable to each regulated process.

2. The results of sampling and analysis identifying the nature and concentration, and/or mass of regulated pollutants in the discharge from each regulated process, where required by the standard or by the director. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 62-166(j) of this chapter.

3. Sampling must be performed in accordance with procedures set out in section 62-166(k) of this chapter.

f. Certification. A statement, reviewed by the user's authorized representative and certified by a licensed professional engineer, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

g. Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A

compliance schedule pursuant to this section must meet the requirements set out in section 62-166(b) of this chapter.

h. Signature and certification. All baseline monitoring reports must be signed and certified in accordance with section 62-165(b)(3) of this chapter.

(b) *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by section 62-166(a)(2)g of this chapter:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation):

(2) No progress increment referred to above shall exceed nine months:

(3) The user shall submit a progress report to the director no later than 14 days following each date in the schedule and the final date of compliance including in such report, at a minimum, statements as to whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

(4) In no event shall more than nine months elapse between such progress reports to the director.

(c) *Reports on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in subsections 62-166(a)(2)d--f of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 62-165(b)(3) of this chapter.

(d) *Periodic compliance reports.*

(1) All users shall, at a frequency determined by the director but for SIU's in no case less than twice per year (in June and December), submit a report to the director indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 62-165(b)(3) of this chapter.

(2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring and flow measurement facility in good working order shall not be grounds for the user to claim that sample results are not representative of its discharge.

(3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in section 62-166(j) of this chapter, the results of this monitoring shall be included in the report.

(e) *Reports of changed conditions.* Each user must notify the director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 45 days before the change.

(1) The director may require the user to submit such information as the director may deem necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 62-165(b) of this chapter.

(2) The director may issue a wastewater discharge permit under section 62-165(b) of this chapter or modify an existing wastewater discharge permit under section 62-165(b) of this chapter in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20 percent or greater, and the discharge of any previously unreported pollutants.

(f) *Reports of potential problems.*

(1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the User shall immediately notify the director by telephone of the discharge. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(2) Within five days following such discharge, the user shall, unless user receives a written waiver from the director, submit a detailed written report describing the cause(s) of the discharge and the measures taken, or to be taken, by the user to prevent future similar occurrences. Such notification shall not relieve the user of any liability for any expense, loss, damage, personal injury, or other claim which may be suffered or incurred as a result of damage to the POTW, damage to natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(3) A notice shall be permanently posted on the user's bulletin board or some other prominent place advising employees of whom to call in the event of a discharge described in subsection (f)(1) above. Employers shall ensure that all employees, who may cause such a discharge to occur are advised of the emergency notification procedure.

(g) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the director may require.

(h) *Notice of violation/repeat sampling and reporting.* If sampling performed by a User indicates noncompliance or any other violation, the user must notify the director within 24 hours of becoming aware of the violation. The user shall also immediately repeat the sampling and analysis and submit the results of the repeat analysis to the director within 30 days after becoming aware of the violation. The user is not required to resample if the director monitors at the user's facility at least once a month, or if the director samples between the user's initial sampling and the time when the user receives the results of this sampling.

(i) *Notification of the discharge of hazardous waste.*

(1) If a user wishes to commence discharge of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, such user shall not commence such discharge until written approval from the director has been received, unless such discharge is exempt under subsection (i)(2) below. To obtain such approval, the user shall notify the director, the EPA regional waste management division director, and state hazardous waste authorities, in writing, of the desired discharge, and make application to the director for approval of such discharge. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other) proposed. If the user desires to discharge more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information, to the extent such information is known and readily available to the user:

a. An identification of the hazardous constituents contained in the wastes;

b. An estimation of the mass and concentration of such constituents in the wastestream discharge during the first calendar month; and

c. An estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months.

All notifications an applications must be submitted to the director for his review and assessment at least 180 days prior to the date user desires to commence the discharge. The notification and application under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section 62-166(e) of this chapter. The notification and director approval requirement in this section does not apply to pollutants already reported by industrial users subject to categorical pretreatment standards under the self-monitoring requirements of sections 62-166(a), (c) and (d) of this chapter.

(2) Users are exempt from the requirements of subsection (i)(1) above for discharges that contain 15 kilograms or less of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). The discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or the discharge of any quantity of acute hazardous wastes

as specified in 40 CFR 261.30(d) and 261.33(e), requires the prior written approval of the director.

(3) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the director, the EPA regional waste management waste division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(4) In the case of any notification and application made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(5) This subsection does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(j) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(k) *Sample collection.*

(1) Except as indicated in subsection (k)(2) below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event the director determines that flow proportional sampling is not feasible, the director may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using Grab sampling techniques.

(l) *Timing.* Written reports to the director shall be deemed to have been submitted on the date postmarked. For reports which are not deposited, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report by the director shall govern.

(m) *Record keeping.* Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include:

(1) The date, exact place, method, and time of sampling;

(2) The name of the person(s) taking the samples;

(3) The dates analyses were performed;

(4) Identification of the person(s) who performed the analyses;

(5) The analytical techniques or methods used; and the results of such analyses.

These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the town, or where the user has been specifically notified of a longer retention period by the director.

(Ord. of 11-25-96)

Sec. 62-167. Compliance monitoring.

(a) *Monitoring facilities.* The user shall provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the town may, when such a location would be impractical or cause undue hardship for the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the town's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the town.

(b) *Inspection and sampling.* The town may inspect the facilities of any user to ascertain whether the purpose of this chapter are being met and whether all requirements of the ordinance, and permits and orders issued hereunder are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town, approval authority and EPA, or their representatives, ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying or for the performance of any of their duties. Such access shall be given to the town, approval authority and EPA Monday through Friday during regular business hours and at all other times the user is discharging to the POTW. The town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into user's premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, approval authority and EPA shall be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the director's, approval authority's, or EPA's access to the user's premises shall be a violation of this chapter. Unreasonable delays in permitting entry may constitute denial of access.

(c) *Search warrants/administrative inspection warrants.* If the director, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate

probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect or sample as part of a routine inspection and sampling program of the town designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the director, approval authority, or EPA may seek issuance of a search warrant or administrative inspection warrant from a magistrate, clerk of court, District Court judge or Superior Court judge in the County of Wake.
(Ord. of 11-25-96)

Sec. 62-168. Confidential information.

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

When timely requested by the person furnishing a report, the portions of a report which might disclose trade secrets shall not be made available for inspection by the public but shall be made available to governmental agencies, upon their written request, for uses related to this chapter, the national pollutant discharge elimination system (NPDES) permit, nondischarge permit and/or pretreatment programs. The alleged trade secret portions of a report shall also be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics shall not be recognized as trade secrets.

All records relating to compliance with pretreatment standards and requirements shall be made available to officials of the approval authority and EPA, upon request.
(Ord. of 11-25-96)

Sec. 62-169. Enforcement.

(a) *Administrative remedies.*

(1) *Notification of violation.* Whenever the director finds that any person has violated or is violating this chapter, a wastewater discharge permit, or any prohibition, limitation or requirement contained therein, the director may serve upon such person a written notice stating the nature of the violation (notice of violation). Within 30 days of the date of the notice of violation, a plan for the satisfactory correction of the violation shall be submitted to the town by the person. Submission of this plan does not relieve the person of liability for any violations occurring before or after receipt of the notice of violation.

(2) *Consent orders.* The director is hereby authorized and empowered to enter into consent orders, assurances of voluntary compliance, or other similar agreements with any person responsible for violation of, or noncompliance with, this chapter or a permit issued hereunder (hereafter referred to as noncompliance). Such orders shall specify action to be taken by the person to correct the noncompliance within a time period that shall be specified in the order. Consent orders shall

have the same force and effect as an administrative order issued pursuant to subsection 62-169(a)(4) below.

(3) *Show cause hearing.* The director may order any user who causes or is responsible for an unauthorized discharge, who has violated this chapter or is in noncompliance with a wastewater discharge permit, to show cause why a proposed enforcement action should not be taken. In the event the director determines that a show cause order should be issued, a notice that substantially notifies the user of the specific time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the User show cause why this proposed enforcement action should not be taken shall be issued by the director ("Show Cause Hearing Notice"). The "Show Cause Hearing Notice" shall be served on the user at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

The director shall review the evidence presented at the hearing and shall determine whether the proposed enforcement action is appropriate. A show cause hearing under this section is not a perquisite to the assessment of a civil penalty under section 62-169(b) nor is any action or inaction taken by the director under this section subject to an administrative appeal under section 62-165(b)(8).

(4) *Administrative orders.* When the director, or his duly authorized representative, finds that a user has violated or continues to violate this chapter, the prohibitions or discharge limitations of this chapter, or those contained in any wastewater discharge permit or order issued hereunder, the director, or his duly authorized representative, may issue an order to cease and desist, and direct those persons in noncompliance to do any of the following:

a. Immediately comply with all requirements;

b. Comply in accordance with a compliance time schedule set forth in the order;

c. Take appropriate remedial or preventative action in the event of a continuing or threatened violation;

d. Disconnect from the POTW, or cease discharging into the POTW unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(5) *Emergency suspensions.* The director, or his duly authorized representative, may suspend wastewater treatment service and/or the wastewater discharge permit when the director believes suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES permit.

Any user notified of a suspension of their wastewater treatment service and/or their wastewater discharge permit shall immediately stop or eliminate the discharge. A hearing shall be held within 15 days of the "Notice of Suspension" to determine whether the suspension may be lifted or the user's wastewater discharge permit terminated. In the event of a failure of the person to comply voluntarily

with the suspension order, the director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any person or property. The director shall reinstate the wastewater discharge permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge and the payment of all user charges, surcharges, penalties and other costs assessed hereunder. The user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the director prior to the date of the above-described hearing.

(6) *Termination of permit.* Any user who violates the following conditions of this chapter, or applicable state or federal regulations, is subject to having its permit terminated:

a. Failure to factually and accurately report the wastewater constituents and characteristics of the user's discharge;

b. Failure to report significant changes in operations, or wastewater constituents and characteristics;

c. Refusal to allow reasonable access to user's premises to the director, approval authority, or EPA for the purpose of inspection or monitoring; or,

d. Violation of conditions of the wastewater discharge permit.

Noncompliant users shall be notified of the proposed termination of their wastewater discharge permit and will be offered an opportunity to show cause under section 62-169(a) of this chapter why the proposed action should not be taken.

(b) *Civil penalties.* Any user who is found to have failed to comply with any provision of this chapter, or the orders, rules, regulations and permits issued hereunder, may be fined by the director up to $10,000 per day per violation. Such assessments may be added to the user's next scheduled sewer service charges and the POTW, in addition to all other remedies, shall have such remedies for the collection of such assessments as it has for collection of other service charges.

(c) *Penalty determination.* In determining the amount of the civil penalty, the director shall consider the following:

(1) The degree and extent of the harm to natural resources, the public health, or to public or private property resulting from the violation;

(2) The duration and gravity of the violation;

(3) The effect on ground or surface water quantity or quality or on air quality;

(4) The cost of rectifying the damage;

(5) The amount of money the user saved by noncompliance;

(6) Whether the violation was committed willfully or intentionally;

(7) The prior record of the violator in complying or failing to comply with the pretreatment program; and

(8) The costs of enforcement to the town.

(d) *Other available remedies.* Remedies, in addition to those previously mentioned in this chapter, are available to the director who may use any single one or combination thereof against a noncompliant person or user. Additional available remedies include, but are not limited to:

(1) *Criminal violations.* The district attorney for the tenth Judicial District (the Judicial District encompassing Wake County) may, at the request of the town, prosecute noncompliant persons and users who violate the provisions of N.C.G.S. 143-215.6B.

(2) *Injunctive relief.* Whenever a user is in violation of the provisions of this chapter or an order or permit issued hereunder, the director, through the town attorney, may petition the Wake County Superior Court for the issuance of a restraining order or a preliminary and permanent injunction, which restrains or compels the activities in question.

(3) *Water supply severance.* Whenever a user or person is in violation of the provisions of this chapter or an order or permit issued hereunder, water service to the user or person may be severed and service will only recommence, at the user's or person's expense, after it has satisfactorily demonstrated ability to comply.

(4) *Public nuisances.* Any violation of the prohibitions or discharge limitations of this chapter or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person(s) creating a public nuisance shall be subject to the provisions of the Code of Ordinances of the Town of Morrisville governing such nuisances, including reimbursing the town for any costs incurred in removing, abating or remedying said nuisance.

(5) *Remedies nonexclusive.* The remedies provided for in this chapter are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user or other person. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan. However, the director may take other action against any user or other person when the circumstances warrant. Further, the director is empowered to take more than one enforcement action against any noncompliant user of the POTW and sewer collection system.

Sec. 62-170. Annual publication of significant noncompliance.

At least annually, the POTW director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H.0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

(Ord. of 11-25-96)

Sec. 62-171. Affirmative defenses to discharge violations.

(a) *Upset.*

(1) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (2), below, are met.

(2) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and the user can identify the cause(s) of the upset;

b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

c. The user has submitted the following information to the director within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

1. A description of the discharge and cause of noncompliance;

2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(3) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(4) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(5) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(b) *Prohibited discharge standards defense.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 62-163(1) of this chapter or the specific prohibitions in sections 62-163(2)a.--c., and 62-163(2)e.--g. of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the town was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable residual solids use or disposal requirements.

(c) *Bypass.*

(1) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (1) and (2) of this subsection.

(2) *Notice.* Notice of a bypass shall be provided as follows:

a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the director, at least ten days before the date of the bypass, if possible.

b. A user shall submit oral notice to the director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours of the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(3) *Bypass prohibited except in certain cases.*

a. Bypass is prohibited, and the director may take an enforcement action against a user for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required under subsection (2) of this section.

b. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the conditions listed in subsection (3)(a)(1)--(3) of this section.

(Ord. of 11-25-96)

Sec. 62-172. Notices.

Unless specifically provided otherwise, any notice required or permitted to be given by the director or public utilities of the Town of Morrisville pursuant to this chapter shall be deemed to have been properly given on the date it is deposited in the U.S. mail, postage prepaid, and addressed to the user, or applicant, at the address shown on any application, permit, bill, or other information available to the director.

Unless specifically provided otherwise, any notice required or permitted to be given by a user, or applicant, shall be deemed to have been properly given when received by the director of public utilities of the Town of Morrisville.

Unless specifically provided otherwise, any notice or communication required or permitted to be served pursuant to this chapter shall be deemed to have been properly served if personally delivered to or served upon the user or applicant; or, if mailed registered or certified mail, return receipt requested and delivered to the user or applicant; or by any other method of service set forth in Rule 4 of the North Carolina Rules of Civil Procedure.
(Ord. of 11-25-96)

Secs. 62-173--62-185. Reserved.

DIVISION 4.

WATER QUALITY PROTECTION

Sec. 62-186. Definitions.

As used in this division, the following terms shall have the meanings provided in this section unless the context clearly indicates otherwise.

Air-gap separation. An unobstructed vertical distance through the atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. An approved air-gap vertical separation shall be at least double the diameter of the supply pipe. In no case shall the air-gap be less than one inch.

Approved. Certified in writing by the director of public utilities as an acceptable device or methodology for the purpose of backflow prevention.

Auxiliary intake. Any piping connection or other device whereby water may be secured from a source other than public water supply.

Backflow. Any flow of water into the public water supply from any other source due to a cross-connection, auxiliary intake, interconnection, backpressure, backsiphonage, any combination thereof, or other cause.

Backpressure. Any pressure on any source of water other than the public water supply which may be greater than the pressure on the public water supply and may result in a backflow.

Backflow prevention device. An approved effective device or method used to prevent backflow from occurring in the potable water supply. The type of device required shall be based on degree of hazard, existing or potential.

Backsiphonage. Any circumstance in which the pressure on the public water supply may be reduced to the point that the elevation and atmospheric pressure on a source of water other than the public water supply may result in a pressure to be greater than the pressure on the public water supply and may result in a backflow.

Certified tester. A person who has proven his/her competency to test, repair, overhaul and make reports on backflow prevention devices as evidenced by certification of successful completion of a training program approved by the director of public utilities.

Confinement device. A backflow prevention device, as approved and required, installed within a private plumbing or distribution system to isolate a localized hazard from the remainder of said system.

Consumer. Any person, firm, or corporation responsible for any property at which water from the Town of Morrisville public water supply is received. In the absence of other parties or the failure of other parties to accept the responsibilities herein set forth, the owner of record shall be ultimately responsible.

Containment device. A backflow prevention device, as approved and required, installed at the point of separation between the public water supply and a private service or private distribution system or at the point of metering.

Cross-connection. Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such a manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

Cross-connection control coordinator. The official position established and authorized by the town and designated by the director of public utilities to administer and interpret this section and who shall be a certified tester.

Double check valve backflow prevention device. An approved assembly composed of two single, spring-loaded independently operating check valves, including tightly closing shut-off valves located at each end of the assembly, and having suitable connections for testing the watertightness of each check valve.

Dual check valve. An approved device containing two independently acting check valves in series.

Fire line. A system of pipes and equipment used to supply water in an emergency for extinguishing fire.

Interconnection. Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, heat exchanger, storage reservoir, or other device which does or may contain sewage or other waste or substance which would be capable of imparting contamination to the public water supply.

Pressure vacuum breaker. An approved assembly containing an independently operating spring loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly must be equipped with suitable connections for testing the proper operation of the device and tightly closing shut-off valves located at each end of the assembly.

Public water supply. The water and waterworks system of the Town of Morrisville, and its customers outside the corporate limits, for general use and which supply is recognized as the public water supply by the North Carolina Department of Human Resources.

Reduced pressure zone principle backflow prevention device (RPZ). An approved device containing within its structure two spring loaded independently operating check valves, together with an automatically operating pressure differential relief valve located between the two check valves. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow the pressure between the checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves less than the supply pressure. This device shall have suitable connections for testing the proper operation of the device, including tightly closing shut-off valves located at each end of the device.
(Ord. of 11-25-96)

Sec. 62-187. Compliance with federal and state law.

The Town of Morrisville will comply with the Federal Safe Drinking Water Act, the North Carolina Drinking Water Act, and North Carolina State Building Code, which pertain to cross-connections, auxiliary intakes and interconnections, and establish an effective ongoing program to control potential sources of contamination of the public water supply.
(Ord. of 11-25-96)

Sec. 62-188. Unlawful connections.

It shall be unlawful for any person to cause a cross-connection, auxiliary intake, or interconnection to be made; or allow one to exist for any purpose whatsoever.
(Ord. of 11-25-96)

Sec. 62-189. Inspection of property.

It shall be the duty, upon request of the director of public utilities, of the cross-connection coordinator to cause inspections to be made of properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspections shall be set by the director of public utilities.

(Ord. of 11-25-96)

Sec. 62-190. Right of access.

The director of public utilities, or authorized representative, shall have the right to enter, at reasonable time, any nonresidential property served by a connection to the Morrisville public water supply for the purpose of performing the duties of this division. In those cases in which the property owner chooses not to provide such access, the director of public utilities, or authorized representative, may designate the location as a high hazard in accordance with section 62-192.
(Ord. of 11-25-96)

Sec. 62-191. Existing conditions.

Any consumer shall be allowed 90 days to correct any cross-connections, auxiliary intakes, interconnections or other hazard as defined by section 62-192 of this Code in violation of the provisions of this division. The 90 days will be from the date of receipt of the notification given by the cross-connection coordinator.
(Ord. of 11-25-96)

Sec. 62-192. Hazardous uses.

(a) The following uses shall be classified as hazardous uses:

(1) Hazardous uses include, but are not limited to: pumps and tanks handling sewage, radioactive, lethal, or toxic substances, boiler and steam connections, sewer waste lines, low inlets to receptacles containing toxic substances, coils or jackets used as heat exchangers, flush valve toilets without vacuum breaks, bacterial and viral materials, private wells or other private water supply, irrigation systems, water systems or hose connections, with booster pumps, carbonation equipment, or similar hazard potential as determined by the cross connection coordinator.

(2) Any location at which the nature or mode of operation within a premises is such that frequent alternations are made to the plumbing or at which there is a likelihood in the determination of the cross-connection coordinator that protective measures may be subverted, altered, or disconnected.

(3) Any facility which contains, but is not limited to, a bottling plant, cannery, building having five or more stories, battery manufacturer, exterminator, greenhouse, chemical processing plant, dairy, dye works, film laboratory, car wash, hospital, commercial laboratory, laundry, metal fabricating operation, mortuary, swimming pool, morgue, x-ray equipment, medical office with laboratory, aspirator, medical washing equipment, packing house, plating plant, poultry house, power plant, nuclear reactor, pumped fire sprinkler or riser system or those equipped with facilities for introduction of freeze preventive chemicals or other substances other than water.

(b) All installations described in section 62-192 of this Code shall be deemed hazardous uses, and must have a containment device in the form of a reduced pressure zone backflow prevention device provided that, if the consumer demonstrates to the satisfaction of the cross-connection coordinator that sufficient internal

confinement devices have been installed and tested. The cross-connection coordinator may require that the consumer provide engineering drawings sealed by a professional engineer of installations within the premises, which provide complete internal protection against cross-connection as approved by the cross-connection coordinator. Any such connection shall be considered an other connection for the purpose of determining the type of containment device required. Each internal confinement device shall be one of the following, as approved by the director of public utilities or his authorized representative: reduced pressure zone principle backflow prevention device, double check valve backflow prevention device, air gap, vacuum break-pressure type, or dual check valve. Each reduced pressure zone principle backflow prevention device serving as an internal confinement device shall have a mesh strainer immediately upstream of the inlet gate valve.
(Ord. of 11-25-96)

Sec. 62-193. Other connections.

(a) Services to single-family residential units, not otherwise required by this Code to have other containment devices, may have a containment device in the form of an approved dual check valve. On all such services for which meters are applied more than 90 days following the date of adoption of this division, said dual check valves or other containment devices as required shall be installed by the owner's representative prior to the installation of the meter by the department of public utilities. On all such services for which meters have been applied prior to that date, said dual check valve shall be installed by the department of public utilities, provided that the town reserves the right to charge the owner or occupant of any residence for the cost of said device and its installation. Maintenance of dual check valve containment devices installed in accordance with this section shall be conducted by the department of public utilities.

(b) All other connections to the public water supply of the Town of Morrisville shall have containment devices in the form of a double check valve backflow prevention device as set forth in section 62-194 of this Code. This shall include water mains installed to town standard, and with Town supervision, but which are not maintained by the town, pursuant to section 62-62, including but not limited to mobile home parks, apartments, group housing projects, and other private distribution systems, or similar hazard potential as determined by the director of public utilities, or his authorized representative.
(Ord. of 11-25-96)

Sec. 62-194. Installation of containment devices.

(a) The containment devices shall be located off street right-of-way on the water main side of any plumbing connections. When installed in a building, the device shall be located on the service line immediately after its entrance into the building. Each containment and confinement device shall be installed in a location which is physically accessible for inspection and testing as determined by the cross-connection coordinator. Containment devices which have been buried in the ground do not satisfy the provisions of this Code.

(b) The director of public utilities shall maintain a list of approved manufacturers and models of hazard containment devices and drawings of standard installations, copies to be made available through the office of the director of public utilities and the building code administrator's office. All reduced pressure zone principle backflow prevention devices and double check valve backflow prevention devices shall be approved by the foundation for cross connection control and hydraulic research. All vacuum breaks and dual check valve devices shall be approved by the American Society for Sanitary Engineers. All installations and materials shall conform to Town standards as set by the director of public utilities.

(c) In those cases in which containment and/or confinement devices have been previously installed by prior owners, the town, or other parties, the responsibility for maintenance, testing, and replacement as applicable shall be with the consumer.

(d) The cost of said means of containment and any other plumbing modifications necessary and convenient thereto, and the testing and maintenance thereof, is to be paid for by the consumer.
(Ord. of 11-25-96)

Sec. 62-195. New construction.

All buildings proposing to connect to the public water system of the Town of Morrisville receiving building permits, on or after the effective date of this division, shall be equipped with an approved and tested as properly functioning backflow prevention device(s), as prescribed herein, prior to the issuance of a certificate of code compliance for that building. If a building permit was issued for the building prior to the effective date of the division, or a building permit was not required, the building shall be considered to be an existing building prior to the effective date, in accordance with 62-191 of this Code.
(Ord. of 11-25-96)

Sec. 62-196. Notification of consumer.

Upon identification of a hazard, or hazard potential, as defined in sections 62-192 and 62-193 of this Code, the cross-connection coordinator shall notify the consumer of record of the property on which the hazard exists, of the following:

(1) Location of hazard;

(2) Nature of hazard observed;

(3) Date hazard observed;

(4) Section of Code applicable;

(5) Requirements of Code.

Such notification to be made by certified mail, with return receipt requested.
(Ord. of 11-25-96)

Sec. 62-197. Change in nature of use.

The department of public utilities shall be notified by the consumer when the nature of use of the property changes so as to change the hazard classification of that property, as set forth in sections 62-192 and 62-193 of this Code.
(Ord. of 11-25-96)

Sec. 62-198. Consumer responsibilities.

(a) The consumer shall, upon notification, as defined in section 62-196 of this Code, install the hazard containment device(s) required within 90 days from the date of notification.

(b) If, after expiration of 90 days, the containment device(s) has not been installed in conformance with standards set by the director of public utilities, in a proper working condition, the director of public utilities may discontinue the public water supply service at that premises, and service shall not be restored until such devices have been installed. The director of public utilities may permit an extension of up to 90 additional days if compliance efforts are underway and the existence of hardship can be demonstrated.

(c) The town shall bear no liability for direct or consequential damages proximately caused by the discontinuance of service pursuant to this section.
(Ord. of 11-25-96)

Sec. 62-199. Testing and maintenance of devices.

The consumer at each property at which containment and/or confinement device(s) have been installed, except those with devices installed in accordance with section 62-193 of this Code, shall have each containment and/or confinement device(s) tested on an annual basis, and perform any routine maintenance to such device as recommended by the manufacturer, and provide the cross-connection coordinator with a report of that inspection and work. The consumer shall cause such maintenance or repairs to be made, rendering the device fully operational. Failure of the consumer to perform that testing and maintenance shall be cause for the premises to be deemed an immediate public health hazard. The director of public utilities may immediately thereafter discontinue public water supply service to that premises and service shall not be restored until such devices have been rendered fully operational. Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate containment or confinement devices shall be provided by the property owner to avoid the necessity of discontinuing water service to test or repair the device or devices.
(Ord. of 11-25-96)

Sec. 62-200. Enforcement by civil penalty.

(a) Violation of any provision of this article may subject the offender to a civil penalty to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within 30 days after the assessment has become final by exhaustion of the appeal process established by this section, or by failure to appeal the assessment.

The civil penalty for violation of any provision of this cross-connection control division shall not exceed $500.00 per day for each day of continuous violation, or a cumulative or single civil penalty of $10,000.00. The civil penalty for willful violation of any provision of this division shall not exceed $1,000.00 per day for each day of a continuous violation, or a cumulative or single civil penalty of $20,000.00.

(b) Any civil penalty shall be assessed by the town manager, upon the recommendation of the director of public utilities, and shall be based upon the reasonable estimated cost of correcting the cited violation, the magnitude of the potential risk posed to the public health, safety and welfare by the violation, and

the cost of the public safety or other emergency response caused by the violation. The town manager shall serve written notice of the civil penalty assessment on the offender and set out with reasonable care the basis of the amount so assessed.

(c) *Equitable relief.* The provisions of this division may be endorsed by an appropriate equitable remedy, including a mandatory or prohibitory injunction, issuing from a court of competent jurisdiction.

(d) *Enforcement option.* The penalties and enforcement provisions established by this article may be applied in addition to or in lieu of the penalties established by other sections of this Code.
(Ord. of 11-25-96)

Sec. 62-201. Limitation of liability.

The town shall not be held liable, for any cause, for failure to detect any unit failing to operate adequately, or failure to identify any specific hazard, which may result in contamination of its public water supply, nor shall this article diminish the responsibility of any property owner from whose property a contamination of the public water supply may originate.
(Ord. of 11-25-96)

Secs. 62-202--62-260. Reserved.

ARTICLE IV.

INFRASTRUCTURE INSPECTION FEES*

* **Cross References:** Buildings and building regulations, ch. 10; streets, sidewalks, and other public places, ch. 54.

Sec. 62-261. Fee schedule.

There is hereby established the following fee schedule for inspection of water, sewer, street and other infrastructure improvements as follows:

(1) Water: $0.80 per linear foot of water line, including privately owned water mains located on the town's side of any water meter.

(2) Sewer: $0.80 per linear foot of sewer line.

(3) Streets: $0.40 per linear foot per lane, including widening of existing public roadways and fire lanes on private property.

(4) Other underground improvements: $1.60 per linear foot of facility length for any underground improvement placed within a town maintained roadway pavement area, either within the right-of- way or beneath the roadway pavement.

(Ord. No. 96-48, § 1(62-161), 11-12-96)

Sec. 62-262. Payment of fees.

The infrastructure inspection fees shall be paid to the town according to the following schedule:

(1) For subdivisions, the fee must be paid prior to recordation of the subdivision plat.

(2) For site plans, the fee must be paid prior to issuance of a building permit.

(3) For public infrastructure improvements, the fee must be paid prior to acceptance of the improvements by the town.

(4) For private improvements, the fee must be paid prior to construction of the improvements.

(Ord. No. 96-48, § 1(62-162), 11-12-96)

Chapters 63--65

RESERVED

Chapter 66

VEGETATION*

* **Cross References:** Nuisances, § 18-81 et seq.

Article I. In General

Secs. 66-1--66-35. Reserved.

Article II. Trees and Shrubs

Sec. 66-36. Definitions.
Sec. 66-37. Purpose.
Sec. 66-38. Duties and responsibilities of planning board.
Sec. 66-39. Public tree care.
Sec. 66-40. Tree topping.
Sec. 66-41. Removal of stumps.
Sec. 66-42. Interference with town employees or officials.
Sec. 66-43. Permits required.

ARTICLE I.

IN GENERAL

Secs. 66-1--66-35. Reserved.

ARTICLE II.

TREES AND SHRUBS

Sec. 66-36. Definitions.

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:

Park trees means trees, shrubs and bushes in public parks, and all areas owned by the town or to which the public has free access as a park.

Street trees means trees, shrubs and bushes on land lying within the rights-of-way on either side of all streets, avenues or ways within the town.
(Ord. of 2-11-85, § 2)

Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 66-37. Purpose.

(a) The purpose of this article is to regulate the planting, maintenance and removal of trees on

municipally owned public property and rights-of-way within the town and on municipally owned property wherever located. In order to protect and conserve trees on public property and rights-of-way, this article provides for the pruning, treatment and removal of trees and shrubs as is deemed necessary by the board of commissioners. This article is also intended to provide for the trimming or removal of trees on public land when they obscure street lights, interfere with utility lines, or constitute a hazard to pedestrian or vehicular traffic, or otherwise endanger the public health, safety or welfare.

(b) Another purpose of this article is to encourage the protection of trees and express the town's intent to use trees to create a more natural and amenable human environment. This article is not intended to be punitive nor to cause hardship to any person who uses the utmost care and diligence to protect trees within the town or on town property.
(Ord. of 2-11-85, § 1)

Sec. 66-38. Duties and responsibilities of planning board.

(a) It shall be the responsibility of the planning board to study, investigate and develop a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented to the board of commissioners and upon its acceptance and approval shall constitute the official comprehensive tree plan for the town.

(b) The planning board, when requested by the board of commissioners, shall consider, investigate, report and recommend upon any special matter of question coming within the scope of its work.

(c) The planning board shall furthermore serve as an advisory board to the board of commissioners with the following duties and responsibilities:

(1) To facilitate the planting, growth and protection of trees within the town.

(2) To foster the communication among the citizens of the town that would provide the needed protection of trees and to coordinate active measures to support their health and growth within the town.

(3) To conduct a tree survey of existing trees along streets and on public property within the town.

(4) To investigate available grants, loans or contributions from other governmental agencies, public or private corporations or individuals and to recommend the expenditure of any proceeds toward the accomplishment of the board's purpose.

(5) To conduct continuing research, planning and feasibility studies required to support the purpose stated in this article.

(d) The tree board shall submit regular reports of its activities and recommendations to the board of commissioners.
(Ord. of 2-11-85, § 3)

Sec. 66-39. Public tree care.

(a) The town shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the rights-of-way of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(b) The town may remove or cause or order to be removed, any publicly owned tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electrical power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of such trees is in accordance with the guidelines for planting and spacing developed by the planning board.
(Ord. of 2-11-85, § 4)

Sec. 66-40. Tree topping.

It shall be unlawful as normal practice except as described below for any person or town employee to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees that interfere with or are an imminent threat to utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the planning board.
(Ord. of 2-11-85, § 5)

Sec. 66-41. Removal of stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.
(Ord. of 2-11-85, § 6)

Sec. 66-42. Interference with town employees or officials.

It shall be unlawful for any person to prevent, delay or interfere with town employees or officials, or any of its agents, while engaging in and about the planting, cultivation, mulching, pruning, spraying or removing of any street trees, park trees or trees on public grounds, as authorized in this article.
(Ord. of 2-11-85, § 7)

Cross References: Officers and employees, § 2-61 et seq.

Sec. 66-43. Permits required.

It shall be unlawful for any person, other than town officials or employees, to prune, treat or remove any street tree or park tree within the town without first filing an application and procuring a permit from the police department. The town maintains the right to review the application and the tree in question in determining whether or not to issue a permit.
(Ord. of 2-11-85, § 8)

Chapter 67

VEHICLES FOR HIRE*

* **Cross References:** Streets, sidewalks and other public places, ch. 54; traffic and vehicles, ch. 58.

Article I. In General

Secs. 67-1--67-30. Reserved.

Article II. Taxicabs

Sec. 67-31. Purpose.
Sec. 67-32. Definitions.
Sec. 67-33. Permit required for taxicab service.
Sec. 67-34. Conduct of drivers.
Sec. 67-35. Inspection decal.
Sec. 67-36. Vehicle inspections and certification by the chief.
Sec. 67-37. Vehicle service and maintenance records.
Sec. 67-38. Compliance with traffic and other laws.
Sec. 67-39. Enforcement and penalties.
Sec. 67-40. Appeal from refusal.
Sec. 67-41. Hiring with intent not to pay.

ARTICLE I.

IN GENERAL

Secs. 67-1--67-30. Reserved.

ARTICLE II.

TAXICABS

Sec. 67-31. Purpose.

[The purpose of this article is] to protect the public health, safety and welfare of the residents of the town when using taxicab service and to promote the orderly development and maintenance of safe and reliable privately operated taxicab transportation service in the town.
(Ord. No. 01-47, § 1, 8-13-01)

Sec. 67-32. Definitions.

[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:]

Chief means the chief of police of the town and his or her designee(s). The chief is responsible for the administration of this chapter.

Driver means any person driving a taxicab, either as an owner or under the direction, employment, control, or service of the owner as herein defined.

Owner means every person having control, whether by outright ownership, lease, or otherwise of any taxicab for hire.;ol0;*Operating permit* means the permit, issued by the chief of police or his or her designee, under which a person may operate a passenger vehicle for hire.

Permit means an operating permit and a driver's permit, as the context requires.

Person includes both singular and plural, and means and includes any individual, firm, corporation, association, partnership or society, exclusive of public agencies.

Taxicab means and includes every vehicle driven or propelled by gasoline, electric motor or other mechanical devices, other than motor buses operating along regular routes and schedules, or between fixed termini, which shall be used for the purpose of carrying, transporting or conveying any person or persons from one place to another, for which services a charge or fee is made. Any taxicab parked or traveling on the streets of the town shall be subject to the provisions of this article.

Taxicab service means any passenger transportation service, available for hire, on call or demand over the public streets of the town where the service is not provided over a defined route but between such points and over such routes, as may be directed by the passenger(s) or person(s) hiring same, and irrespective of whether the operations extend beyond portions of the town.
(Ord. No. 01-47, § 2, 8-13-01)

Sec. 67-33. Permit required for taxicab service.

No person shall operate any taxicab service within the corporate limits of the town without first obtaining an operating permit from the town authorizing such operation.

(1) If the applicant is in compliance with this article, is of good moral character and there are no ground(s) for denial of the permit under the provisions of the article, a permit will be issued. Any applicant denied a permit shall be given written notice of the ground(s) for denial.

(2) Application requirements. Each applicant for a taxicab driver's permit shall make application on forms to be provided by the town, supplying the following information:

a. The applicant's full name and address.

b. The applicant's physical condition, with particular reference to hearing, eyesight, abuse of alcoholic beverages and/or controlled substances, as diagnosed by a physician.

c. The applicant's physical description, including age, race, height, color of eyes and hair.

d. The length of time the applicant has resided at his/her current address.

e. The applicant's place(s) of residence and employment for the two years immediately

proceeding the date of application

f. The applicant's criminal record.

g. The applicant's driver's history including, but not limited to North Carolina.

h. A statement from the driver's insurance company confirming current liability coverage and the policy expiration date.

i. Two photos of the driver.

j. A $10.00 non-refundable application fee with each application.

The application shall be signed and sworn to by the applicant before a notary certified in the state.

(3) Taxicab service permits shall be denied or revoked on the following grounds:

a. Failure to have or maintain automobile insurance as required by the laws of the state.

b. Failure to maintain vehicles in good and safe order in compliance with motor vehicle laws.

c. False statements made on the application submitted.

d. Failure to pay any fees as required under this article.

e. Repeated and persistent violations by the permittee or drivers employed by the permit holder of the traffic laws of the town and the state.

f. Employment of a driver who does not have a valid taxicab driver's permit under the provisions of this article.

g. Violation of any of the provisions of this article by the permit holder.

h. The person is determined to be, by the chief of police, not of good moral character, based on the responses listed on the application or has been convicted of a crime involving moral turpitude, soliciting for prostitution, the sale or use of narcotics or dangerous drugs, or other similar crimes, unless a period of five years has elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later.

(Ord. No. 01-47, § 3, 8-13-01)

Sec. 67-34. Conduct of drivers.

No driver shall (i) deceive or attempt to deceive any passenger who may ride or desire to ride in his/her passenger vehicle for hire as to his/her destination or the rate to be for hire as to his/her destination or the rate of

fare to be charged, (ii) convey or cause to be conveyed any passenger to any place other than as directed by the passenger, or (iii) take a longer route to the requested destination than is necessary, unless it is so requested by the passenger(s), except for shared ride service provided for in subsection (4) of this section.

(1) Drivers shall comply with all reasonable and lawful requests of the passenger as to the speed of travel and the route to be taken.

(2) No driver shall have in his/her possession a lighted cigarette, cigar, pipe, or tobacco of any kind while a passenger is being transported in his/her passenger vehicle for hire.

(3) No driver shall allow the seating capacity of his/her passenger vehicle for hire to be exceeded. The seating capacity shall be based on the number of seat belts in the passenger vehicle.

(4) If agreed to by the first passenger, a passenger vehicle for hire transporting passengers may answer other calls, or pick up additional passengers, prior to taking the first passenger to his or her destination, provided that the first passenger consents to the amount of additional time above that normally required for the exclusive-ride trip as estimated in advance by the driver. Passenger vehicles for hire shall specify any fare discounts to passengers participating in a ride sharing. If a child under 16 years of age and unaccompanied by a person 16 years of age or older is the original passenger, no other passengers shall be permitted in the passenger vehicle for hire.

(5) No driver shall refuse or neglect to convey an orderly prospective passenger on the basis of race, color, religion, handicap, age, sex, or national origin or neglect to convey an orderly prospective passenger upon request, unless the driver has made visual contact with the prospective passenger and forms a belief that is reasonable under the circumstances, that transporting such person might be unsafe for the driver, or is forbidden by provision of this article, or unless the "off-duty" placard is visible to a prospective passenger.

(6) A driver shall not knowingly use, sell, handle or transport illegal controlled substances at any time.

(7) A driver shall not convey any information to any passenger or other person as to where illegal controlled substances may be obtained.

(8) It shall be unlawful for a driver to operate his/her vehicle in a manner which threatens a passenger or the general public, or to threaten or otherwise abuse a passenger.

(9) Operating permit holders shall be responsible for the compliance of their affiliated drivers with this section. Failure of a driver to comply may result in issuance of civil penalties and other sanctions to the operating permit holder and the driver pursuant to this section.

(10) All drivers must have in their possession a valid North Carolina driver's license.

(Ord. No. 01-47, § 4, 8-13-01)

Sec. 67-35. Inspection decal.

The chief may require that a taxicab that has been inspected and found to be in a clean and proper condition display an inspection decal issued by the chief and displayed in a location to be determined by the chief. At such times as the chief commences issuing inspection decals, no taxicab shall be operating on the streets of the town without displaying a current valid inspection decal.
(Ord. No. 01-47, § 5, 8-13-01)

Sec. 67-36. Vehicle inspections and certification by the chief.

The owner of a taxicab shall have the chief of police inspect the vehicle within 60 days of applying for an initial license or license renewal. no license or renewal thereof shall be granted unless the applicant presents a signed and dated statement from the chief certifying that the vehicle is in safe operating condition.

All taxicab(s) for hire shall be inspected once a year. Any taxicab for hire which is found, after any such inspection, to be unsafe for a passenger vehicle for hire shall be immediately ordered out of service by the chief of police, and before again being placed in service shall be delivered to the chief of police at a designated point of inspection.
(Ord. No. 01-47, § 6, 8-13-01)

Sec. 67-37. Vehicle service and maintenance records.

The owner of a taxicab shall maintain a legible, written record of all service maintenance and repairs performed on the vehicle, the dates the work was done, the mechanic doing the work, and the location of the facility where the work was done. Such records shall be retained by the owner and shall be made available to the chief for at least three years.
(Ord. No. 01-47, § 7, 8-13-01)

Sec. 67-38. Compliance with traffic and other laws.

Each operator and driver of a taxicab shall comply with all provisions of this article and other town ordinances, state law, rules, and regulations regulating the operation, stopping, standing and parking of vehicles, the conduct of business, and any other applicable provision of law.

(1) No driver shall stop, stand, or park a vehicle for more than 15 minutes at a business, on a street, or on any public vehicular area except to receive or discharge a passenger.

(2) Upon any violation of the provisions of this section, the driver's permit of the violator may be suspended or revoked in accordance with procedures provided in this section.

(Ord. No. 01-47, § 8, 8-13-01)

Sec. 67-39. Enforcement and penalties.

(a) *Civil penalty.* In addition to all other remedies and sanction available to the town or imposed under law, there is hereby imposed a civil penalty in the amount of $50.00 for the first violation of any provision of this article in any 12-month period and $100.00 for any subsequent violation and each thereafter, in a 12-month period.

(1) The levying of civil penalties may be initiated by any police officer giving written notice of the violation along with a statement that a civil penalty is being imposed. The notice shall inform the recipient that he or she may appeal the civil penalty within ten days to the chief. If an appeal is made, a hearing shall be held before the chief. Following the hearing, the chief shall affirm or reverse the imposition of the penalty. A notice of violation that is not appealed, or one affirmed after appeal, shall be considered finally assessed.

(2) For the second and successive violations of any of the provisions of this article during any 12-month period, the civil penalty shall be double that for the first violation.

(3) Civil penalties shall be paid within 30 days to the finance department of the town. If not so paid, the town may initiate a civil action in the name of the town to collect any unpaid penalty. Permits shall remain revoked until the penalty or penalties have been satisfied.

(4) Any permit required to be issued or renewed under this article shall not be issued or renewed in the event civil penalties for violations remain unpaid by the applicant or by an employee of the applicant.

(b) *Misdemeanor.* In addition to the levying of civil penalties for violations of this article, violations shall also be punishable as a misdemeanor offense under G.S. 14-4, each day's continuing violation constituting a separate offense.
(Ord. No. 01-47, § 9, 8-13-01)

Sec. 67-40. Appeal from refusal.

(a) In case of refusal by the chief to grant a permit under this section, the applicant shall have the right to appeal, in writing within ten days of each successive administrative refusal, to the town manager.

(b) Each written notice of appeal shall be filed with the town clerk.

(c) The scope of the town manager's review shall be limited to that of fact finding only.

(d) The town manager's decision on the question of granting or refusing such permit shall be final and conclusive.

(e) After refusal by the administration or the chief of police the applicant shall make no new application within 12 months from the date he submitted the original application. Pending any appeal from a decision of driver's permit, it shall be unlawful for such applicant to drive a taxicab within the town or within one mile of the corporate limits thereof.
(Ord. No. 01-47, § 10, 8-13-01)

Sec. 67-41. Hiring with intent not to pay.

Any person who engages, uses, employs or hires any truck, automobile, taxicab, ambulance or other vehicle and who fails or refuses to pay for same, with intent to cheat and defraud the owner and/or agent of the owner of the rental price, charge, fee or fare, therefore, shall be guilty of a misdemeanor.

(Ord. No. 01-47, § 11, 8-13-01)

CODE COMPARATIVE TABLE
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