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TOWN OF WASHINGTON PARK,  
NORTH CAROLINA  
CODE OF ORDINANCES

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CHARTER

Part I

The Charter of the Town of Washington Park

In re: Incorporation of the Town of Washington Park, in Beaufort County.

Pursuant to adjournment, the Municipal Board of Control met in the office of the Attorney General on July 23, 1923–present: J.S. Manning, Attorney General, chairman, and W.N. Everett, Secretary of State, secretary of the Board.

It appearing to the Board that the petition filed for the incorporation of the Town of Washington Park, in the County of Beaufort, in all respects complies with the provisions of Article 13, Chapter 56, Consolidated Statutes, and that the advertisements required by said chapter have been duly made; and, whereas, at the hearing set for today by adjournment, no voter or tax-payer of said territory appears to contest the incorporation of said town;

Now, therefore, the Municipal Board of Control finds that the allegations of the petition are true and that all of the requirements of this article have been substantially complied with, and that the organization of such town would better serve the interest of said persons and the public, it is, therefore,

Ordered that the following territory is created in the Town of Washington Park, in the County of Beaufort, viz: Bounded on the north by Maple Branch; on the west by Runyon's Creek; on the south by Pamlico River; and on the east by the line between the W.Z. Morton property and Washington Park, formerly known as the Small property, the said line running from Pamlico River to Maple Branch all of which is shown by map hereto attached and made a part of the petition.

And it is further ordered that the following residents and tax-payers of said town shall serve as mayor and commissioners of said town until the next general municipal election, as provided by law, and that the number of the commissioners of said town shall be five (5).

Mayor of said town:	Dr. W.P. Small
Commissioners:	C.A. Flynn
	I.V. Turner
	C.R. Campbell
	Ada M. Pegram
	Alice T. Rankin

Note: The foregoing charter represents one of the few instances in North Carolina in which a city or town was incorporated by action of the Municipal Board of Control rather than the General Assembly. The full petition is recorded at Book 3, Page 115 of the Beaufort County Registry.

Note: Chapter 48 of the Sessions Laws of 1949, dealing with the election of town officers of the Town of Washington Park, has been preempted and superseded by the provisions of G.S. Chapter 163 and therefore is not reproduced here.

## TITLE I: GENERAL PROVISIONS

### Chapter

#### 10. GENERAL CODE CONSTRUCTION; GENERAL PENALTY

### CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

#### Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Rules of interpretation
- 10.07 Severability
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- 10.15 Effective date of ordinances
- 10.16 Repeal or modification of ordinances
- 10.17 Ordinances which amend code; effect of new ordinances
- 10.18 Section histories; section headings; statutory references

#### 10.99 General penalty

#### § 10.01 TITLE OF CODE.

This codification of ordinances by and for the Town of Washington Park shall be designated as the Code of Washington Park, North Carolina and may be so cited.

#### § 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

#### § 10.03 APPLICATION TO FUTURE ORDINANCES.

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

#### § 10.04 CAPTIONS.

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

§ 10.05 DEFINITIONS.

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

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

BOARD OF COMMISSIONERS. The Mayor and Commissioners, or governing body, of the Town of Washington Park, North Carolina.

CHARTER. The Charter of the Town of Washington Park, North Carolina.

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

COMPUTATION OF TIME. The time within which an act is to be done shall be computed by excluding the first and the last day; and if the last day is Saturday, Sunday or a legal holiday, that day shall be excluded.

COUNTY. The County of Beaufort, North Carolina.

G.S. or GENERAL STATUTES. The latest edition of the GENERAL STATUTES of North Carolina, as amended.

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

GOVERNOR. The Governor of North Carolina.

JOINT AUTHORITY. All words giving a joint authority to three or more persons or officers shall be construed as giving the authority to a majority of persons or officers.

MAY. The act referred to is permissive.

MONTH. A calendar month.

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

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

OFFICER, OFFICE, EMPLOYEE, or COMMISSION. An officer, office, employee, or commission of this municipality unless the context clearly requires otherwise.

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. 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 the property.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and

imposing a penalty, the terms PERSON or WHOEVER as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PERSONAL PROPERTY. Every species of property except real property.

PRECEDING or FOLLOWING. Next before or next after, respectively.  
PROPERTY. Includes real and personal property.

REAL PROPERTY. Includes lands, tenements and hereditaments.

SHALL. The act referred to is mandatory.

SIDEWALK. Any portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

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

STATE. The State of North Carolina.

STREET. Any public way, road, highway, street, avenue, boulevard, parkway, dedicated 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.

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

TENANT or OCCUPANT. When applied to a building or land, shall include any person who occupies the whole or a part of the 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 Town of Washington Park, in the County of Beaufort, North Carolina.

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

YEAR. A calendar year, unless otherwise expressed.

ZONING ENFORCEMENT OFFICER. One designated by the Commissioners.

Statutory reference:

Computation of time, see G.S. § 1-593

#### § 10.06 RULES OF INTERPRETATION.

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

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

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

(C) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall

include the plural and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

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

#### § 10.07 SEVERABILITY.

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

#### § 10.08 REFERENCE TO OTHER SECTIONS.

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

#### § 10.09 REFERENCE TO OFFICES.

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

#### § 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, that spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

#### § 10.11 OFFICIAL TIME.

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

#### § 10.12 REASONABLE TIME; COMPUTING TIME.

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

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

#### § 10.13 ORDINANCES REPEALED.

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

#### § 10.14 ORDINANCES UNAFFECTED.

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

(B) 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 and the like, any street or public way in the town;

(7) Any 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 ordinance or zoning map amendment;

(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; and/or

(16) Any personnel ordinance.

(C) Nor shall any 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 ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Statutory reference:

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

#### § 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

#### § 10.16 REPEAL OR MODIFICATION OF ORDINANCES.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or

modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

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

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

#### § 10.17 ORDINANCES WHICH AMEND CODE; EFFECT OF NEW ORDINANCES.

(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, the 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 that the subsequent ordinances numbered or omitted are readapted as a new code by the town.

(B) Amendments to any of the provisions of the code shall be made by amending provisions by specific reference to the section number of this code in language substantially similar to the following: "Section \_\_\_\_\_ of the Code of Ordinances, Town of Washington Park, North Carolina, is hereby amended 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, language substantially similar to the following shall be used: "The Code of Ordinances, Town of Washington Park, North Carolina, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which section shall read as follows:...." The new section shall then be set out in full as desired.

(D) All sections, subchapters, chapters or provisions desired to be repealed must be specifically repealed by section, subchapter or chapter number, as the case may be.

#### § 10.18 SECTION HISTORIES; SECTION HEADINGS; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance and amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-1960; Am. Ord. 15, passed 1-1-1970; Am. Ord. 20, passed 1-1-1980; Am. Ord. 25, passed 1-1-1985)

(B) (1) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. Example: (G.S. § 160A-11) (Ord. 10, passed 1-17-1980; Am. Ord. 20, passed 1-1-1985)

(2) A statutory cite set forth as a "statutory reference" following the text of the section indicates that the reader should refer to that statute for further information. Example:

§39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:



Inspection of public records, see G.S. §§ 132-1 et seq.

(C) If a section of this code is derived from the prior code of ordinances of the town, the prior code section number shall be indicated in the history by “(Prior Code, § ).” The history notes following sections and the references scattered throughout the code are not part of the code, but are merely for the benefit for the user of the code.

#### § 10.99 GENERAL PENALTY.

Any person, firm or corporation violating any of the provisions of any section or division of this code of ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days, and each day that any of the provisions of this code of ordinances are violated shall constitute a separate offense.

(G.S. § 14-4(a))

Statutory reference:

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

### TITLE III: ADMINISTRATION

#### Chapter

- 30. GOVERNMENT OFFICIALS
- 31. GOVERNING BODY; PROCEDURES
- 32. EMERGENCY MANAGEMENT

### CHAPTER 30: GOVERNMENT OFFICIALS

#### Section

##### General Administration

- 30.01 Board to appoint staff
- 30.02 Clerk
- 30.03 Attorney

##### Finance

- 30.20 Finance Officer
- 30.21 Budget Officer
- 30.22 Tax Collector

##### Personnel

- 30.40 Personnel responsibilities of Board
- 30.41 Personnel Officer

##### Other Town Employees and Functions

- 30.55 Town services

### GENERAL ADMINISTRATION

#### § 30.01 BOARD TO APPOINT STAFF.

(A) The Board shall appoint, suspend, and remove all town staff. It may also appoint interim department heads while searching for a person to fill a vacancy.

(B) By letter filed with the Town Clerk, each employee may designate a qualified person to perform his or her duties during his or her temporary absence or disability. This designation is subject to the approval of the Board, which may revoke it at any time and appoint another individual to serve as head employee until the head employee returns or his or her disability ceases.

(Prior Code, § 3-1)

#### § 30.02 CLERK.

- (A) Appointment. The Town Clerk shall be appointed by the Board.
- (B) Duties. The Town Clerk shall:
  - (1) Give notice of meetings of the Board;
  - (2) Keep a journal of the proceedings of the Board;
  - (3) Record in a book kept for the purpose all ordinances and resolutions;
  - (4) Be the custodian of all town records; and
  - (5) Perform other duties as are prescribed by law or by the Town Charter or by the Board.

(Prior Code, § 3-2)

#### § 30.03 ATTORNEY.

The Board shall appoint a town attorney to serve at its pleasure and shall prescribe his or her duties and his or her rate of compensation.

(Prior Code, § 3-3)

#### FINANCE

#### § 30.20 FINANCE OFFICER.

- (A) Appointment. The Board shall appoint a finance officer.
- (B) Duties. The duties of the Finance Officer shall be to:
  - (1) Keep the town's accounts in accordance with generally accepted principles of government accounting and the rules and regulations of the Local Government Commission;
  - (2) Disburse all funds of the town in strict compliance with the Local Government Budget and Fiscal Control Act, the budget ordinance, and each project ordinance, and pre-audit obligations and disbursements as required by the Local Government Budget and Fiscal Control Act;
  - (3) Prepare and file with the Board a statement of the financial condition of the town whenever requested to do so by the Board;
  - (4) Receive and deposit all monies accruing to the town and supervise the receipt and deposit of money by other duly authorized officers or employees;
  - (5) Maintain all records concerning the town's bonded debt, and determine the amount of money that will be required for debt service during each fiscal year, and maintain all sinking funds;
  - (6) Supervise the investment of the town's idle funds; and
  - (7) Perform other duties as may be assigned to him or her by law, the Budget Officer, the Board, or by rules and regulations of the Local Government Commission.

(Prior Code, § 3-4)

#### § 30.21 BUDGET OFFICER.

- (A) Appointment. The Board shall appoint a Budget Officer.
- (B) Duties. The Budget Officer shall perform those duties and responsibilities assigned to him or her by the Local Government Budget and Fiscal Control Act (G.S. Chapter 159, Art. 3).

(Prior Code, § 3-5)

#### § 30.22 TAX COLLECTOR.

- (A) Appointment. The Board shall appoint a tax collector to serve for a term of one year and until his or her successor has been appointed and qualified. The Board

may remove the tax collector under the circumstances and in accordance with the procedure specified in G.S. § 105-349(a). The Tax Collector shall not begin his or her duties until he or she has furnished a bond in accordance with G.S. § 105-349(c), nor shall he or she continue collecting taxes after the bond has expired without renewal.

(B) Duties. In addition to other duties and responsibilities provided by law, the Tax Collector shall:

- (1) Employ all lawful means to collect all property, dog license, privilege, and franchise taxes with which he or she is charged by the Board;
- (2) Perform the duties in connection with the preparation of the tax records and tax receipts as the Board may direct under the provisions of G.S. § 105-319 and G.S. § 105-320;
- (3) Keep adequate records of all of the collections he or she makes;
- (4) Account for all monies coming into his or her hands, in the form and detail as may be required by the Finance Officer;
- (5) Make settlement at the times required by G.S. § 105-373 and at any other time the Board may require him or her to do so;
- (6) Submit to the Board at each of its regular meetings a report of the amount of he or she has collected on each year's taxes with which he or she is charged, the amount remaining uncollected, and the steps he or she is taking to encourage or enforce payment of uncollected taxes;
- (7) Send bills or notices of taxes due to taxpayers if instructed to do so by the Board; and
- (8) Visit delinquent taxpayers to encourage payment of taxes if instructed to do so by the Board.

(C) Deputy Tax Collector. The Board may appoint one or more deputy tax collectors. The term of office, removal procedures, and bonding requirements of the deputy tax collector shall be identical to those of the Tax Collector.

(D) Oath of office. The Tax Collector and any deputy tax collector appointed shall take and subscribe the following oath and file it with the Town Clerk:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as (deputy) tax collector of the Town of Washington Park, and that I will not allow my actions as tax collector to be influenced by personal or political friendships or obligations, so help me God."

Signature

(Prior Code, § 3-6)

#### PERSONNEL

#### § 30.40 PERSONNEL RESPONSIBILITIES OF BOARD.

(A) The Board shall, by adopting and amending the annual budget, fix, or approve the schedule of pay, expense allowances, fringe benefits, and all other compensation of all town employees.

(B) The Board may also adopt rules and regulations governing all aspects of the employment relationship between the town and its employees.

(Prior Code, § 3-10)

§ 30.41 PERSONNEL OFFICER.

(A) The Board shall appoint a personnel officer or confer the duties of a personnel officer on some administrative officer.

(B) The Personnel Officer shall be responsible for administering any pay plan adopted by the Board, recommending to the Board the creation of new positions or the modification of the duties of existing positions and generally administering all town policies and Board directives concerning personnel.

(Prior Code, § 3-11)

OTHER TOWN EMPLOYEES AND FUNCTIONS

§ 30.55 TOWN SERVICES.

(A) Law enforcement services within the town shall be performed by the Beaufort County Sheriff's Department.

(B) Fire prevention and protection services within the town shall be performed by the Fire Department of the City of Washington under contract, or as designated by the Board of Commissioners from time to time.

(C) Building Code enforcement services within the town's planning jurisdiction shall be performed by staff of the Inspections Department of the City of Washington.

(D) Public-works-related responsibilities shall be performed by town employees or contracted assistance under the supervision of the Town Clerk.

(Prior Code, § 3-15)

CHAPTER 31: GOVERNING BODY; PROCEDURES

Section

General Provisions

31.01 Qualifications for office

31.02 Reference to Robert's Rules of Order

General Meeting Procedures

31.20 Agenda

31.21 Order of business

31.22 Presiding officer

31.23 Quorum

31.24 Taking official action

31.25 Debate

31.26 Voting

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31.45 Substantive and procedural motions

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31.47 Motions to dispose of issue without deciding merits

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31.49 Reconsideration of matters disposed of on merits

31.50 Motion to terminate debate

31.51 Miscellaneous motions

## Meetings

31.65 Regular meetings

31.66 Special meetings

31.67 Organizational meetings

## GENERAL PROVISIONS

### § 31.01 QUALIFICATIONS FOR OFFICE.

Upon motion of any member, the Board shall determine the qualifications of any member. An office may be declared vacant by majority vote of the Board membership if the member fails to meet any of the statutory or constitutional requirements of office.

(Prior Code, § 2-31)

### § 31.02 REFERENCE TO ROBERT'S RULES OF ORDER.

Robert's Rules of Order shall govern all procedural matters not addressed by the provisions of this subchapter. However, no action taken by the Board shall be invalidated by a failure to abide by Robert's Rules of Order.

(Prior Code, § 2-33)

## GENERAL MEETING PROCEDURES

### § 31.20 AGENDA.

(A) Preparation. The Town Clerk shall prepare the agenda for the meeting.

(B) Requests to address the Board. Any individual or group that wishes to address the Board shall make a request to be on the agenda to the Town Clerk. However, the Board shall determine at the meeting whether the individual or group will be heard by the Board.

(C) Additions. The Board may, by majority vote of the Board membership, add an item of business that is not on the agenda. Unless otherwise specified by the Board, additions to the agenda shall be taken up at the conclusion of all other regular business.

(Prior Code, § 2-6)

### § 31.21 ORDER OF BUSINESS.

(A) Items of business shall be taken up at a meeting in the order they appear on the agenda, except as provided in division (D) below.

(B) Items shall be placed on the agenda according to the Order of Business established by the Board upon recommendation of the Town Clerk.

(C) In establishing the Order of Business, the Board may authorize broad categories of business to be included as agenda items, such as "members of the public wishing to be heard" or "matters by the attorney."

(D) Items may be considered out of order by consent of all members present or by majority vote upon a motion.

(Prior Code, § 2-7)

### § 31.22 PRESIDING OFFICER.

(A) The Mayor shall preside at meetings of the Board, except as provided in division (C) below. A member must be recognized by the Mayor in order to address the Board.

(B) As presiding officer, the Mayor shall have the following powers, in addition to those conferred elsewhere in this chapter:

(1) To rule motions in or out of order, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;

(2) To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule upon objections from other members on this ground;

(3) To entertain and answer questions of parliamentary law or procedure, subject to being overruled by a two-thirds' vote of the membership of the Board;

(4) To call a brief recess at any time; and

(5) To adjourn in the event of an emergency.

(C) (1) If the Mayor becomes actively engaged in debate on a particular issue, he or she may delegate the duty to preside over the debate to the Mayor Pro Tempore or to any other member of the Board who is not so engaged and who acquiesces in the delegation.

(2) The temporary chairperson may only preside over the debate and may not participate in it; however, he or she does not forfeit his or her right to vote on the issue by acting as temporary chairperson.

(3) The chairperson shall resume the duty to preside as soon as action upon the matter is concluded.

(Prior Code, § 2-8)

#### § 31.23 QUORUM.

A majority of the actual membership of the Board, excluding vacant seats, shall constitute a quorum. A quorum is necessary for the Board to take any official action. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether a quorum is present.

(Prior Code, §2-9)

#### § 31.24 TAKING OFFICIAL ACTION.

(A) The Board shall proceed by motion. A motion, when duly seconded, brings the matter before the Board for its consideration.

(B) A motion may be withdrawn by the introducer at any time prior to a vote if the member who seconded the motion concurs.

(C) Subject to § 31.27 and other provisions of law, official action of the Board shall be by majority vote.

(Prior Code, § 2-10)

#### § 31.25 DEBATE.

(A) Once a motion has been stated and seconded, the Mayor shall open the floor to debate upon it.

(B) The Mayor shall preside over the debate according to the following general principles:

(1) The member who makes the motion is entitled to speak first;

(2) A member who has not spoken on the issue shall be recognized before someone who has already spoken; and

(3) To the extent possible, the debate shall alternate between proponents and opponents of the measure.

(Prior Code, § 2-11)

#### § 31.26 VOTING.

(A) Every member must vote unless excused by the remaining members. A member who wishes to be excused from voting shall inform the chairperson, who shall take a vote of the remaining members on the question of excusing the member making the request.

(B) Unless excused from voting by the foregoing procedure, failure to vote by a member who is physically present in the meeting room, or who has withdrawn without being excused, shall be recorded as an affirmative vote.

(C) A member may be excused from voting on a particular issue by majority vote of the remaining members present if the matter at issue involves that member's own financial interest or official conduct. A member may be allowed to withdraw from the entire remainder of the meeting by a majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(D) A roll call vote shall be taken upon the request of any member.

(E) When this subchapter specifies that action shall be taken by majority vote or fails to specify the vote required, that shall be interpreted to mean a vote of the majority of those present and not excused from voting. When a two-thirds' vote is required, that shall be interpreted to mean a vote of two-thirds of those present and not excused from voting. When a vote of a certain percentage of the Board membership is required, that shall be interpreted to mean the specified percentage of all seats on the Board, excluding vacant seats.

(Prior Code, § 2-12)

#### § 31.27 ADOPTION OF ORDINANCES.

(A) An affirmative vote equal to a majority of all the members of the Board not excused from voting on the question in issue (including the Mayor's vote in case of an equal division) shall be required to adopt an ordinance or take any action having the effect of an ordinance.

(B) Subject to the provisions of G.S. Chapter 159 (Local Government Finance), no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two-thirds of the Board membership. When an ordinance requires a public hearing, the ordinance shall be considered introduced at the meeting when the Board sets a date for the public hearing.

(C) Franchise ordinances and amendments shall not be finally adopted until passed at two regular meetings of the Board.

(Prior Code, § 2-13)

#### § 31.28 EXECUTIVE SESSIONS.

The Board may hold executive sessions in accordance with the Open Meetings Law (G.S. §§ 143-318.9 et seq.) and other provisions of law. The Board shall commence an executive session by majority vote to do so and shall terminate an executive session in the same manner. Minutes shall be kept of executive sessions but shall remain sealed as provided by law.

(Prior Code, § 2-14)

#### § 31.29 PUBLIC HEARINGS.

(A) Public hearings required by law or deemed advisable by the Board shall be scheduled pursuant to a motion adopted by a majority vote setting forth the subject, date,

place, and time of the hearing as well as any rules regarding length of time of each speaker and other matters regarding the conduct of the hearing.

(B) At the appointed time the Mayor shall call the meeting to order and then preside over it. Upon the expiration of the allotted time, or when there are no individuals who wish to speak who have not done so, the Mayor shall declare the hearing ended.

(C) A quorum of the Board shall be required at all public hearings required by state law.

(Prior Code, § 2-15)

§ 31.30 MINUTES.

Minutes shall be kept of all meetings of the Board.

(Prior Code, § 2-16)

MOTIONS

§ 31.45 SUBSTANTIVE AND PROCEDURAL MOTIONS.

(A) A substantive motion is a motion that seeks to have the Board exercise any of its powers, duties, or responsibilities. A motion to amend a substantive motion is also a substantive motion. A substantive motion, other than to amend, is out of order while another substantive motion is pending.

(B) A procedural motion is a motion that relates either to the manner in which the Board conducts its business in general or the manner in which the Board deals with a particular substantive issue or substantive motion that is before it.

(C) Unless otherwise specifically provided, all motions authorized by this subchapter may be amended and debated.

(Prior Code, § 2-21)

§ 31.46 MOTION TO AMEND.

(A) An amendment to a motion must be germane to the subject matter of the motion, but it may achieve the opposite effect of the motion.

(B) There may be an amendment to the motion, and an amendment to an amendment, but no further amendments.

(C) Any amendment to a proposed ordinance shall be reduced to writing upon the call of any member.

(Prior Code, § 2-22)

§ 31.47 MOTIONS TO DISPOSE OF ISSUE WITHOUT DECIDING MERITS.

(A) Motion to defer consideration until a date certain. This motion requires that a date be set when without further action by the Board a matter will again be placed on the agenda.

(B) Motion to defer consideration indefinitely. Adoption of this motion removes the issue from the Board's consideration until the time as a motion to revive consideration is adopted (see § 31.48(A)) or a new motion dealing with the same issue is introduced and seconded (see § 31.49(A)).

(C) Motion to refer to a committee. Unless this motion includes an instruction to report the matter back by a date certain, or unless a motion is adopted under § 31.48(B), a matter referred to a committee remains there until returned to the Board by the committee.

(Prior Code, § 2-23)

§ 31.48 MOTIONS TO REVIVE OR RECONSIDER AN ISSUE.



(A) Motion to revive consideration of an issue. Adoption of this motion brings an issue back before the Board for its consideration, regardless of whether the issue had been deferred indefinitely or to a date certain.

(B) Motion to recall an issue from committee. Adoption of this motion may bring a matter immediately before the Board, or the motion may direct a committee to report an issue back to the Board by a date certain.

(C) Motion to reconsider a vote. This motion may be made only at the meeting at which the vote in question was taken and only by a member who voted with the prevailing side. If adopted, the effect is to negate the earlier vote and then bring the matter back before the Board as if the earlier vote had never taken place.

(Prior Code, § 2-24)

#### § 31.49 RECONSIDERATION OF MATTERS DISPOSED OF ON MERITS.

(A) Renewal of motions. A motion that is defeated may be renewed at any subsequent meeting unless a motion has been adopted in accordance with division (B) below.

(B) Motion to prevent reconsideration for six months. This motion is in order immediately following the defeat of a substantive motion and at no other time. It requires a two-thirds' vote for adoption. A matter concerning which this motion has been adopted may be brought before the Board prior to the expiration of six months pursuant to a vote to suspend the rules. This motion does not bind a new Board.

(Prior Code, § 2-25)

#### § 31.50 MOTION TO TERMINATE DEBATE.

A motion to call the previous question is a motion to cut off debate on a matter under consideration and put the matter to a vote. This motion shall be in order at any time, but unless each Board member present has had an opportunity to speak at least once on the issue, the motion requires a two-thirds' vote for adoption. This motion is not debatable and may not be amended.

(Prior Code, § 2-26)

#### § 31.51 MISCELLANEOUS MOTIONS.

In addition to others authorized by this subchapter, the following motions shall be in order:

(A) Divide. Divide a complex question and consider it by paragraph.

(B) Suspend the rules. This motion shall require a two-thirds' vote for adoption.

(C) Recess. Take a recess.

(D) Adjourn. This motion may not be amended.

(Prior Code, § 2-27)

#### MEETINGS

##### § 31.65 REGULAR MEETINGS.

The Board shall hold a regular meeting on the first Monday of each month, unless that day is a legal holiday, in which case the meeting shall be held on a day of the Board's choosing. The meetings shall be held at the Municipal Building and shall begin at 8:00 p.m.

(Prior Code, § 2-1)

##### § 31.66 SPECIAL MEETINGS.

(A) The Mayor, the Mayor Pro Tempore, or any two members of the Board may at any time call a special Board meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each Board member or left at his or her usual dwelling place at least six hours before the meeting. Special meetings may be held at any time when the Mayor and all members of the Board are present and consent thereto, or when those not present have signed a written waiver of notice. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice.

(B) The public shall also be notified of any special meeting by giving written notification to the media of the time and place of the meeting and the subjects to be considered at least six hours prior to the meeting.

(Prior Code, § 2-2)

#### § 31.67 ORGANIZATIONAL MEETINGS.

(A) At the first regular meeting in December following a general election in which Board members or the Mayor are elected, the newly elected members and the Mayor shall, as the first order of business, take and subscribe the oath of office.

(B) The oath of office shall be that prescribed by Article VI, Section 7 of the North Carolina Constitution.

(C) Also at the organizational meeting, the Board shall elect from its members a Mayor Pro Tempore to serve at the Board's pleasure. The Mayor Pro Tempore shall exercise any of the powers and duties of the Mayor during the Mayor's absence or incapacitation, as provided in G.S. § 160A-70.

(Prior Code, § 2-3)

### CHAPTER 32: EMERGENCY MANAGEMENT

#### Section

#### Emergency Preparedness

32.01 County Plan adopted by reference

#### State of Emergency

32.20 State of emergency defined

32.21 State of emergency declared by Mayor

32.22 Contents of proclamation

32.23 Publication of proclamation

32.24 Effect of proclamation; curfew

32.25 Termination of state of emergency

#### EMERGENCY PREPAREDNESS

#### § 32.01 COUNTY PLAN ADOPTED BY REFERENCE.

The Beaufort County Emergency Preparedness Plan is hereby adopted by reference.

#### STATE OF EMERGENCY

#### § 32.20 STATE OF EMERGENCY DEFINED.

The state of emergency exists whenever, during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason town public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of the condition is imminent.

(Prior Code, § 9-1)

§ 32.21 STATE OF EMERGENCY DECLARED BY MAYOR.

(A) Whenever the Mayor finds that a state of emergency exists within all or a portion of the town, he or she shall issue of a proclamation declaring the state of emergency in accordance with §§ 32.22 and 32.23.

(B) This proclamation, and any prohibitions and restrictions made effective by it, shall take effect immediately upon publication unless the proclamation sets a later time.

(Prior Code, § 9-2)

§ 32.22 CONTENTS OF PROCLAMATION.

The proclamation issued by the Mayor shall declare to all persons that a state of emergency exists and shall set forth:

(A) The area within which the state emergency exists, which may be the entire town or a specifically described portion of it;

(B) The date and time from which the proclamation shall be effective;

(C) Any restrictions and prohibitions that shall be effective during the state of emergency and the penalties for violations; and

(D) The date and time when the state of emergency shall terminate, unless extended or earlier terminated in accordance with § 32.25.

(Prior Code, §9-3)

§ 32.23 PUBLICATION OF PROCLAMATION.

(A) For the purpose of making effective the prohibitions and restrictions imposed by the proclamation, publication may consist of reports of the substance of the proclamation's contents, including the prohibitions and restrictions, in the mass communications media serving the effected area or other effective methods of disseminating the necessary information quickly.

(B) Notwithstanding division (A) above, the full text of the proclamation shall be published as soon as practicable in one or more newspapers serving the effected area and may be posted in various places or otherwise disseminated to give the clearest notice practicable of its contents.

(Prior Code, § 9-4)

§ 32.24 EFFECT OF PROCLAMATION; CURFEW.

(A) The proclamation of a state of emergency shall activate any local civil preparedness plan and shall authorize the town to seek assistance from the county, state, and federal governments in accordance with provisions of G.S. Chapter 166A.

(B) The Mayor is authorized in the proclamation to impose a curfew applicable to all persons within the area described in the proclamation. The curfew may be made effective during all or any portion of any day during the state emergency. During the curfew, no person may, within the area affected by the curfew:

(1) Possess off his or her own premises, buy, sell, giveaway, or otherwise transfer or dispose of any explosives, firearms ammunition, or dangerous weapon of any kind;

(2) Sell beer, wine, or intoxicating beverages of any kind or possess or consume the same off his or her own premises;

(3) Sell gasoline or any similar petroleum products except when pumped or piped directly into the tank of a motor vehicle; or

(4) Travel upon any public street or highway or upon public property, unless the person is in search of medical assistance, food, or other commodity or service necessary to sustain the well-being of himself or herself or his or her family or some member thereof or unless the person is engaged in the performance of some function necessary to preserve the public health or safety, such as police and fire officers, other emergency service personnel, utility employees, doctors and nurses, and the like.

(Prior Code, § 9-5) Penalty, see § 10.99

#### § 32.25 TERMINATION OF STATE OF EMERGENCY.

A state of emergency and any restrictions imposed in connection therewith shall automatically terminate at the end of five days after it becomes effective, except that the same:

(A) May be continued for another five-day period by the publication of a new proclamation; or

(B) May be earlier terminated by the Mayor, who may issue a proclamation declaring the state of emergency to be over at any time he or she concludes that to be the case, and who shall issue such a proclamation if the Board concludes that the state of emergency has ended.

(Prior Code, § 9-6)

### TITLE V: PUBLIC WORKS

#### Chapter

50. UTILITIES GENERALLY; WATER AND SEWERS

51. SOLID WASTE MANAGEMENT

### CHAPTER 50: UTILITIES GENERALLY; WATER AND SEWERS

#### Section

##### General Regulations

50.01 Privies, privy vaults, cesspools and septic tanks

#### GENERAL REGULATIONS

#### § 50.01 PRIVIES, PRIVY VAULTS, CESSPOOLS AND SEPTIC TANKS.

It shall be unlawful for any person to erect, install, maintain or use any privy, privy vault or cesspool; and septic tanks shall be lawful only on properties not required to be connected to the town sanitary sewer system, and then only when of a type approved by the state and county health authorities, and installed in locations and in a manner as to meet the requirements and approval of the state and county health authorities.

Penalty, see § 10.99

### CHAPTER 51: SOLID WASTE MANAGEMENT

#### Section

##### General Provisions

51.01 Definitions

##### Collection Generally

51.15 Collection practices

51.16 Point of collection, preparation

##### Containers

51.30 Required

51.31 Prohibited materials

51.32 Pre-collection practices

51.33 Burning leaves, limbs and the like

51.34 Storing of refuse

51.35 Unlawful deposits

Statutory references:

Authority to regulate solid wastes, see G.S. §§ 160A-311 et seq.

Solid waste management, see G.S. §§ 130A-290 et seq.

## GENERAL PROVISIONS

### § 51.01 DEFINITIONS.

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

**ASHES.** Refuse resulting from the burning of wood, coal, coke and other combustible material.

**BUILDING RUBBISH.** Rubbish from construction, remodeling and repair operations on houses, commercial buildings and other structures, including but not limited to excavated earth, stones, brick, plaster, lumber, concrete and waste parts occasioned by installations and replacements.

**BULK CONTAINERS.** A metal container of not less than four cubic yards nor more than eight cubic yards, of sound construction, equipped with drains to keep the container free of accumulated liquids, equipped with a suitable lid, and compatible with the town's container collection vehicle.

**BUSINESS BUILDING.** Any structure, whether public or private, that is adapted for transaction of business, for rendering of professional services, for amusement, for the display or sale or storage of goods, wares, merchandise, articles or equipment, including hotels, apartment houses, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, abattoirs, warehouses, sheds, barns and other structures on premises used for or adapted to business purposes.

**GARBAGE.** Animal and vegetable refuse resulting from the handling, preparation, cooking and consumption of food, including a minimum amount of liquid necessarily incident thereto.

**HAZARDOUS REFUSE.** Materials such as poison, acids, caustics, chemicals, infected materials, offal, fecal matter, explosives, radioactive materials and other volatile or potentially dangerous substances.

**INDUSTRIAL WASTE.** Sawdust, shavings, feathers, excelsior, cartons, boxes, metal, glass, paper, wood textiles, chemicals, plastic or other waste materials from processing plants, factories or manufacturing operations.

**REFUSE.** Solid waste, including but not limited to garbage, rubbish and ashes.

**RUBBISH.** Refuse (exclusive of garbage and ashes) including but not limited to paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree, bush and hedge, branches, cutting and trimmings, yard trimmings, grass, leaves, tin cans, metals, small mineral matter, glass, crockery, dirt, earth and dust.

**WASTE.** Useless, unused, unwanted, discarded or discarded materials resulting from natural community activities, including solids, liquids and gases.

## COLLECTION GENERALLY

### § 51.15 COLLECTION PRACTICES.

(A) Residential. Except as otherwise provided in this subchapter and except in the case of an emergency arising from an act of God, holidays and circumstances over which the town has no control, the town shall collect, remove and dispose of certain

refuse in residential sections in the town twice each week. There will be no Sunday service for residential locations.

(B) Building rubbish and bulky items. Building rubbish shall be collected, removed and disposed of by the builder or contractor, or in his or her failure, by the owner of the property. Building rubbish generated by do-it-yourself projects may be handled by the town if prior arrangements are made with the Public Works Director or his or her agent at least 24 hours in advance. Building rubbish must be placed curbside and cannot block town sidewalks or streets. Any and all amounts of building rubbish may result in billing the property owner to cover transportation to an approved disposal site and the tipping fees incurred. Bulky items such as worn out furniture and/or appliances may be collected by appointment only. Such items must be placed curbside and must not block town sidewalks or streets. Handling of these items by the town may require payment of transportation costs and tipping fees to cover expenses incurred by the town in the disposal of these items.

(C) Private collection. No person shall engage in the business of collecting, hauling or transporting in the town any waste without first obtaining a permit or franchise from the Board of Commissioners.

(D) Hazardous waste. No hazardous waste shall be collected.

(E) Special collections. Special collections may be arranged through the town, as his or her primary obligations may permit, plus tipping fees as established from time to time by the applicable solid waste management authority and/or the Beaufort County Board of Commissioners. These collections must not become a regular service to anyone. The material must be readily accessible to the street or alleyway.

#### § 51.16 POINT OF COLLECTION, PREPARATION.

(A) No garbage, trash, leaves, limbs and the like shall be placed in the town streets.

(B) No garbage shall be collected unless it is prepared as provided in this subchapter.

(C) No person shall place in any bulk container located at any site or location approved for use by the town, any waste, garbage, rubbish or other refuse generated or collected from any site or location other than the location or site on which the bulk container into which the refuse is being placed is so located.

Statutory reference:

Regulation of placement of garbage or trash, see G.S. § 160A-303.1

#### CONTAINERS

#### § 51.30 REQUIRED.

(A) Every person occupying a house or residence in the residential area where garbage or refuse exist shall provide containers made of galvanized metal or plastic or approved bags in which shall be deposited all garbage or refuse existing at the buildings or premises. Each container shall be provided with handles and with a tightfitting cover made of the same material as the container. Containers shall not have less than 20 nor more than 32-gallon capacity, 75-pound maximum weight limit.

(B) Each householder may use plastic bags. However, the bags will be used at the sole risk of the householder and, if the bags are torn prior to collection, the garbage spill resulting from the tear shall be immediately removed from the area by the householder. It shall not be the responsibility of the town to remove the same.

(C) Each home and business building shall have a sufficient number of containers to hold the refuse until collected.

(D) All persons doing business in the business building within the town limits shall provide containers as outlined in this section unless deemed obsolete by the town.

(E) All leaves, cuttings, trimmings or other debris of similar nature shall be placed at or near the curb. Vacuumable materials (leaves, grass clippings, etc.) shall not be placed in medians

#### § 51.31 PROHIBITED MATERIALS.

(A) It shall be unlawful for any person to place or cause to be placed within a garbage or trash receptacle owned or provided by the town any of the following substances or materials:

- (1) Oil, grease, gasoline and other substances having a petroleum base;
- (2) Acids and chemicals; and/or
- (3) Other explosive, corrosive, inflammable or radioactive substances, or substances that would tend to pollute or contaminate land, water or air.

(B) This section is adopted pursuant to the provisions of G.S. §§ 160A-183 and 160A-185.

Penalty, see § 10.99

#### § 51.32 PRECOLLECTION PRACTICES.

(A) All garbage and refuse shall have liquid drained therefrom before it is placed in the container for collection. All lids to containers shall fit tight after containers are filled.

(B) Tree and shrub trimmings shall be placed in piles not to exceed four feet in length, 18 inches in diameter and not over 75 pounds in weight.

(C) Large tree and shrub trimmings, bulky and excessive amounts of refuse, leaves and yard rakings that cannot be handled by routine collection procedure will be handled under regulations of the town. This is referred to as extra refuse and will be handled by the town as soon as conveniently possible, but the hauling shall not interfere with the normal collection schedule of regular refuse and garbage. Tree stumps, trunks and limbs shall be cut to sizes that can readily be loaded by two people, and shall be piled in easily accessible locations for loading. Persons hired by the property owner to remove the above mentioned items are responsible for the disposal of the items at no expense to the town.

#### § 51.33 BURNING LEAVES, LIMBS AND THE LIKE.

No person shall burn leaves, shrubs, trees, limbs and the like on the streets or sidewalks or on private property, except upon special permission of the town.

Penalty, see § 10.99

#### § 51.34 STORING OF REFUSE.

Every owner and every occupant or other person in control of any building or land in the town, including vacant property, shall keep the same in a clean and orderly condition and shall deposit refuse for collection in accordance with the provisions of this subchapter and the regulations of the town. Combustible and noncombustible refuse shall be stored in containers complying with this subchapter.

#### § 51.35 UNLAWFUL DEPOSITS.

No person shall throw, drop or deposit, or cause to be thrown, dropped, deposited, on any land in the town (vacant or occupied, including specifically streets, alleys,

sidewalks, gutters, ditches, drainage canals, or other public and/or semi-public areas or in all waters under the jurisdiction of the town and other public and other semi-public areas or in all waters under jurisdiction of the town) any waste including but not limited to refuse, garbage, ashes, rubbish, dead animals or fish, paper, drinking cups, broken glass, tacks, brush, grass, weeds and anything injurious to health. If any person, while transporting or hauling or causing to be transported or hauled, the rubbish, material or earth excavation, coal or other material, shall throw, drop or deposit or cause to be thrown, dropped or deposited, the rubbish or material from the body of the vehicle, in violation of the provisions of this section, must daily clean up and remove the rubbish or material in a manner satisfactory to the town, failing which the town may clean up and remove the rubbish and material, and the town may collect the cost of the cleaning up and removal from the person.

Penalty, see § 10.99

## TITLE VII: TRAFFIC CODE

### Chapter

- 70. GENERAL PROVISIONS
- 71. TRAFFIC RULES
- 72. TRAFFIC CONTROL AND TRAFFIC CONTROL DEVICES
- 73. PARKING AND STOPPING REGULATIONS

## CHAPTER 70: GENERAL PROVISIONS

### Section

70.01 Definitions and rules of construction

70.02 Special provisions for bicycles, toy vehicles, and the like

§ 70.01 DEFINITIONS AND RULES OF CONSTRUCTION. **See attached amendment adopted January 6, 2020, regarding golf carts.**

**Section 70.01** "DEFINITIONS AND RULE OF CONSTRUCTION" is amended to include the following definitions:

**Golf Cart.** A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 MPH. Any vehicle subject to state regulation and licenses is exempt from this definition. All-terrain vehicles, four-wheel utility vehicles, go-karts, and other similar utility vehicles which are not manufactured for operation on a golf course are also exempt from this definition. The definition is republished here for convenience only and the definition set out in NCGS 20-4.01(12b), as amended from time to time, is controlling for all purposes.

**Driver's License.** No person who is less than 16 years of age or who does not have a valid driver's license issued under or granted by the laws of North Carolina or some other state, may operate a golf cart on any public street, road or highway within the Town or on any property owned or leased by the Town. For purposes of this section, a learner's permit shall not be considered as a valid driver's license nor shall any license that has been revoked, temporary or otherwise, or suspended for any reason, be considered as a valid driver's license, during the period of suspension or revocation.



**Financial Responsibility.** Liability insurance coverage on a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highways in the State of North Carolina.

**Disclaimer.** Golf carts are not designed or manufactured for use on public streets, and the Town neither advocates nor endorses the golf cart as a safe means of travel on public streets, roads and highways. The Town of Washington Park has no liability, under any theory of liability, for accidents, injuries or death involving the operation of a golf cart or for permitting carts to be operated on roads under special legislation granted by the North Carolina State Legislature.

**Assumption of Risk.** Any person who owns, operates or rides upon a golf cart on a public street, road or highway within the Town of Washington Park does so at his or her own risk and peril and assumes all liability resulting from the operation of the golf cart.

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

**DRIVER.** The operator of a vehicle.

**HIGHWAY or STREET.** The entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms **HIGHWAY** or **STREET** or a combination of the two terms shall be used synonymously.

**INTERSECTION.** The area embraced within the prolongation of the lateral curb lines or, if none, then the lateral edge of roadway lines of two or more highways which join one another at any angle whether or not one highway crosses the other. Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection.

**LOCAL STREET.** A street within the town that is not part of the state highway system.

**MOTOR VEHICLE.** Every vehicle that is self-propelled, and every vehicle designed to run upon the highways that is pulled by a self-propelled vehicle.

**OPERATOR.** A person in actual physical control of a vehicle that is in motion or that has the engine running.

**PARKING or STANDING.**

(1) A vehicle is parked or is permitted to stand when it is stopped and allowed to remain in a fixed location for any duration of time, whether attended or unattended. Except where the context clearly indicates otherwise, the limitations on parking and standing in this subchapter apply only to locations within a street right of way.

(2) In no case do these limitations apply when a vehicle is stopped to avoid conflict with other traffic or in compliance with law or the directions of a police

officer or traffic control device or as the result of an emergency or because the vehicle is disabled.

**ROADWAY.** That portion of a highway improved, designed, or ordinarily used for traffic, exclusive of the shoulder. In the event a highway includes two or more separate roadways, the term ROADWAY as used herein shall refer to any roadway separately, but not to all the roadways collectively.

**SAFETY ZONE.** A traffic island or other space that is officially set aside within a highway for the exclusive use of pedestrians and that is so plainly marked or indicated by proper signs as to be plainly visible and all times while set apart as a safety zone.

**STATE-HIGHWAY-SYSTEM-STREET.** A street within the town that is part of the state highway system. Whenever this chapter regulates parking or the movement of traffic on, to, or from a state-highway-system-street, then to the extent that concurrence by the State Department of Transportation is necessary (by passage of a concurring ordinance or otherwise) the regulation shall not become effective until the concurrence is obtained. Streets listed in this chapter that are part of the state highway system are designated by an asterisk (\*).

**STREET.** See HIGHWAY.

**TOWN CLERK.** The Town Clerk or any other person designated by the Board to perform the functions assigned by this chapter. Whenever this chapter authorizes or requires the TOWN CLERK to install a traffic control device controlling parking or regulating the movement of traffic on, to, or from a state-highway-system street and the installation of such a device is in practice a function of the State Department of Transportation, the Town Clerk may discharge his or her responsibility by requesting the State Department of Transportation to install the device.

**TRAFFIC CONTROL DEVICE.** Any sign, signal, marking or other device placed or erected pursuant to a lawfully adopted ordinance and designed to regulate, warn, guide or control traffic.

**TRAFFIC CONTROL SIGNAL.** Any device designed to regulate, guide, or control traffic through the use of alternating or flashing lights or by some other mechanical means.

**VEHICLE.** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this chapter bicycles shall be deemed vehicles and every rider of a bicycle upon a highway shall be subject to the provisions of this chapter applicable to the driver of a vehicle except those which by their nature can have no application.

(Prior Code, § 6-1)

#### § 70.02 SPECIAL PROVISIONS FOR BICYCLES, TOY VEHICLES, AND THE LIKE.

(A) No person upon roller skates or riding a bicycle, coaster, toy vehicle or similar device may attach himself or herself or such a vehicle or device to any moving motor vehicle.

(B) No person may ride or drive a bicycle upon any sidewalk.

(C) The driver of a motorcycle or bicycle when upon the street shall not carry any other person upon the handlebars, frame, or tank of any vehicle, nor shall any person so ride upon any vehicle.

(Prior Code, § 6-18) Penalty, see § 10.99

## CHAPTER 71: TRAFFIC RULES

### Section

#### 71.01 General speed limit

##### § 71.01 GENERAL SPEED LIMIT.

As provided in G.S. § 20-141(b)(1), no person may drive a vehicle on a street or any public vehicular area in excess of 25 mph unless a different speed is established by this chapter.

(Prior Code, § 6-11) Penalty, see § 10.99

**§ 71.02 Required Safety Features.** In order to operate a golf cart within the Town of Washington Park, the golf cart must have the following safety features installed:

- (1) Two operating front headlights;
- (2) Two operating taillights;
- (3) A rear vision mirror;
- (4) At least one (1) reflector per side;
- (5) A parking brake; and
- (6) Must be limited to a maximum of three (3) rows of seats.

Penalty, see § 10.99 adopted January 6, 2020.

**§ 71.03 Standards of Operation.** It is unlawful to operate a golf cart on a public street, road or highway within the Town of Washington Park unless the following requirements are met:

- (1) The driver and passengers must be properly seated while the golf cart is in motion and may not be transported in a negligent manner. The driver may not allow the number of people in the golf cart at any one time to exceed the maximum capacity specified by the manufacturer.
- (2) No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions, and in no instance at a speed greater than twenty (20) miles per hour.
- (3) No golf cart may be operated in a careless or reckless manner.
- (4) Golf carts must be operated in accordance with all applicable state and local traffic laws and ordinances, including all laws, regulation and ordinances pertaining to the possession and consumption of alcoholic beverages.
- (5) The possession of open containers of alcohol and/or consumption of alcohol by the driver and/or passengers of a golf cart is prohibited.
- (6) The operator of a golf cart shall yield the right of way to traditional motor vehicles and pedestrians.

Penalty, see § 10.99 Adopted January 6, 2020.

## CHAPTER 72: TRAFFIC CONTROL AND TRAFFIC CONTROL DEVICES

### Section

#### 72.01 Traffic lanes

#### 72.02 Unlawful passing

##### § 72.01 TRAFFIC LANES.

- (A) Whenever the Board finds it necessary or convenient to promote the public safety and facilitate the flow of traffic, it may direct the Town Clerk to:
- (1) Place lane markings on the roadway to divide it into two or more traffic lanes;
  - (2) Install traffic control devices directing specified traffic to use a designated lane; or
  - (3) Install traffic control devices prohibiting the changing of lanes on sections of streets.

(B) The effects of the lane markings and traffic control devices authorized by division (A) above shall be as provided in G.S. § 20-146(d).  
(Prior Code, § 6-5)

#### § 72.02 UNLAWFUL PASSING.

(A) Whenever, pursuant to division (B) below, appropriate traffic control devices have been installed that clearly indicate that no passing is allowed on a portion of any street, no driver of a vehicle may overtake and pass another on any portion of a street so restricted. (Note: G.S. § 20-150(e) makes it unlawful to pass contrary to signs posted by the State Department of Transportation.)

(B) The Town Clerk, at the Board's direction, may install appropriate traffic control devices to indicate that no passing is allowed whenever and wherever he or she determines that passing would be unsafe on that portion of a street because:

- (1) The street intersects with another street;
- (2) The slope or grade of the street is such or the street curves to such an extent that a driver's view is obstructed within a distance of 500 feet; and
- (3) Any other conditions exist making passing hazardous.

(Prior Code, § 6-6) Penalty, see § 10.99

### CHAPTER 73: PARKING AND STOPPING REGULATIONS

#### Section

73.01 Unlawful to operate motor vehicle in street medians or park areas

73.02 Parking prohibited in certain locations; no traffic control devices required

#### § 73.01 UNLAWFUL TO OPERATE MOTOR VEHICLE IN STREET MEDIANS OR PARK AREAS.

It shall be unlawful for any person to operate a motor vehicle, licensed or unlicensed, on the street medians or park areas of the town.

(Ord. passed 10-11-1971) Penalty § 10.99

#### § 73.02 PARKING PROHIBITED IN CERTAIN LOCATIONS; NO TRAFFIC CONTROL DEVICES REQUIRED.

(A) No person may park a vehicle or permit it to stand in any of the following locations:

- (1) As provided in G.S. § 20-162, in front of a private driveway;
- (2) As provided in G.S. § 20-162, within 15 feet of either direction of a fire hydrant (whether or not located in a public right-of-way) or the entrance to a fire station;
- (3) As provided in G.S. § 20-162, within 15 feet of the intersection of curb lines, or if none, then within 15 feet of the intersection of property lines at an intersection of highways;
- (4) Within an intersection or on a marked crosswalk;

- (5) Within 30 feet at any traffic control signal installed at an intersection;
- (6) On a sidewalk;
- (7) In any portion of the roadway intended to carry traffic at the time the vehicle is parked or left standing;
- (8) On the roadway side of any vehicle stopped, standing, or parked at the edge of a curb or street;
- (9) Alongside or opposite any street excavation or obstruction when the parking or standing would obstruct traffic;
- (10) In all medians, except temporarily for special occasions; and
- (11) In any alley or private road in such a manner or under the conditions as to leave available less than ten feet of width of the roadway for the free movement of vehicular traffic or to block the driveway entrance to any abutting property.

(B) The Town Clerk may install no-parking signs, yellow curb markings or other traffic control devices to indicate where parking and standing is prohibited in accordance with division (A), but enforcement of the provisions of this section is not dependent on the installation of the devices.

(Prior Code, § 6-15) Penalty, see § 10.99

#### TITLE IX: GENERAL REGULATIONS

##### Chapter

- 90. ANIMALS
- 91. FIRE PREVENTION
- 92. STREETS AND SIDEWALKS
- 93. HEALTH AND SANITATION; NUISANCES
- 94. TREES AND SHRUBS

#### CHAPTER 90: ANIMALS

##### Section

- 90.01 County regulations adopted
- 90.02 Definitions
- 90.03 Prohibition of certain animals

##### 90.99 Penalty

#### § 90.01 COUNTY REGULATIONS ADOPTED BY REFERENCE.

The Town of Washington Park hereby adopts the Beaufort County Animal Control Ordinance by reference. (Adopted 6/29/98)

#### §90.02 DEFINITIONS.

##### LIVESTOCK

- (1) An animal that typically is kept principally for productive or useful purposes, rather than as a pet.
- (2) The definition includes but is not limited to horses, cows, pigs, goats, sheep, mules, and chickens. (Adopted 8/1/11)

#### §90.03 PROHIBITION OF CERTAIN ANIMALS.

No person may have or keep within the Town any livestock or wild animals. See Definitions. (Adopted 8/1/11)

#### CHAPTER 91: FIRE PREVENTION

Section

91.01 Interference with firefighters; false alarms

91.02 Congregating at fires

91.03 Inspection of premises for fire hazards

91.04 Open burning

91.99 Penalty

§ 91.01 INTERFERENCE WITH FIREFIGHTERS; FALSE ALARMS.

(A) As provided in G.S. § 58-82-1, no person may willfully interfere in any manner with firefighters engaged in the performance of their duties.

(B) As provided in G.S. § 14-286, no person may wantonly and willfully give a false alarm or damage fire alarm, detection, or extinguishing equipment.

(Prior Code, § 12-1) Penalty, see § 91.99

§ 91.02 CONGREGATING AT FIRES.

It shall be unlawful for persons to congregate on the streets, sidewalks or other areas adjacent to a fire so as to interfere with the operations of members of the Fire Department.

(Prior Code, § 12-2) Penalty, see § 91.99

§ 91.03 INSPECTION OF PREMISES FOR FIRE HAZARDS.

(A) As provided in G.S. § 58-79-20, the Fire Chief (Sheriff, where there is no Fire Chief, or Building Inspector) may enter into all buildings and premises during reasonable hours to inspect for combustible materials or inflammable conditions dangerous to the safety of the building or premises.

(B) When any officer making inspection in accordance with division (A) above discovers combustible materials or inflammable conditions, he or she shall order the occupant or person in charge of the premises to remove or remedy the materials or conditions. Unless the person to whom the order is directed appeals to the Commissioner of Insurance within 24 hours, as provided in G.S. § 58-79-20, the order shall be complied with forthwith.

(Prior Code, § 12-3)

§ 91.04 OPEN BURNING.

(A) No person may burn or cause to be burned any material outside of a building without a permit issued by the Town Clerk.

(B) The Town Clerk may issue the permit, authorizing the named applicant to burn specified materials at a designated location on a specified date, if he or she finds that the applicant will comply with the requirements of division (C) below and that no atmospheric conditions or other local circumstances exist that would make the requested burning hazardous.

(C) Burning shall be permitted only on property owned or occupied by the person doing the burning, or his or her agent, and only in accordance with the terms of the permit. Burning shall not be allowed within 50 feet of any structure. Outdoor fires shall be constantly attended, and the person in charge shall have a garden hose or other fire extinguishing equipment readily available for use.

(D) Nothing in this section shall relieve any person of the requirements of any other provision of law governing outdoor burning or pollution from burning.

(Prior Code, § 12-4) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) A violation of any of the following sections shall constitute a misdemeanor, punishable as provided in G.S. § 14-4: §§ 91.02 and 91.04.

(B) A violation of any of the sections listed in division (A) above, shall also subject the offender to a civil penalty of \$25. If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.

(C) The town may seek to enforce this chapter through any appropriate equitable action.

(D) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

(E) The town may seek to enforce this chapter by using any one or any combination of the foregoing remedies.

(Prior Code, § 12-5)

CHAPTER 92: STREETS AND SIDEWALKS

Section

General Provisions

92.001 Damaging street surfaces, street signs, and other facilities

92.002 House and building numbers

92.003 Town Clerk

Obstructions

92.020 Obstructions prohibited

92.021 Overhanging or protruding trees, shrubs, fences, and the like

92.022 Drainage related interference with sidewalks

92.023 Warnings required for obstruction

Driveways and Excavations

92.040 Driveways

92.041 Excavations

92.042 Town indemnified

Street Events

92.060 Activities covered

92.061 Permit required

92.062 Permit application

92.063 Notice to abutting property owners

92.064 Insurance

92.065 Fees; costs incurred by town

92.066 Standards for issuance of permit

92.067 Street closings

92.068 Sponsor responsible for cleanup

Driveways and Walkways

92.086 Owner and town installations

92.087 Owner installations

92.999 Penalty

GENERAL PROVISIONS

§ 92.001 DAMAGING STREET SURFACES, STREET SIGNS, AND OTHER FACILITIES.

(A) No person may intentionally mutilate, deface, remove, damage or in any manner interfere with any of the street name signs, traffic control signs and devices, and other signs erected by any public body.

(B) No person may drag, run, or cause to be dragged or run upon any public street any harrow or other implement, machine or tool likely to injure or cut the surface of the street.

(C) No person may intentionally damage, injure, obstruct or otherwise interfere with any street, sidewalk, bridge, culvert, ditch or drain owned or maintained by the town.

(Prior Code, § 7-31) Penalty, see § 92.999

§ 92.002 HOUSE AND BUILDING NUMBERS.

(A) The owner of every house and every principal building shall display or cause to be displayed on the front thereof, or on the grounds in a position easily observed from the street, and in such manner so as to meet the County's E911 addresses, the number assigned to his or her house or building by the Town Clerk.

(B) No person may display or cause to be displayed on any house or building any number other than the number assigned by the Town Clerk.

(C) No person may remove, obliterate, or destroy any number displayed in accordance with division (A) above.

(Prior Code, § 7-32) Penalty, see § 92.999

§ 92.003 TOWN CLERK.

As used in this chapter, the term TOWN CLERK refers to the person designated by the Board to perform the responsibilities assigned to the Town Clerk by this chapter.

(Prior Code, § 7-33)

OBSTRUCTIONS

§ 92.020 OBSTRUCTIONS PROHIBITED.

(A) Except as otherwise authorized by statute or ordinance (including §§ 92.040 and 92.041 of this chapter), and except to the extent required by the performance of some function authorized or mandated by a statute or ordinance, no person may obstruct or impede travel in the public streets or sidewalks within the town by placing or leaving any object within the traveled portion of the public right-of-way.

(B) Division (A) above shall not apply to temporary obstructions caused by persons engaged in construction work on abutting property when proper warning devices are maintained in the accordance with § 92.023.

(Prior Code, § 7-1)

§ 92.021 OVERHANGING OR PROTRUDING TREES, SHRUBS, FENCES, AND THE LIKE.

(A) No person may cause or allow (from property under his or her control) any tree limb, bush, shrub, or other growth or any trellis, fence or other obstruction to overhang a public street at a distance of less than 12 feet above the traveled portion of the street or a public sidewalk at a distance of less than seven feet above the sidewalk.

(B) No person may cause or allow grass, vines, weeds, or other vegetation to grow from property under his or her control over, onto, or across any public street or sidewalk.



(C) Any violation of division (A) or (B) above is declared to be a public nuisance, and if not corrected by the responsible person within three days after being notified of the violation by the Town Clerk, the town may summarily abate the nuisance. (Prior Code, § 7-2) Penalty, see § 92.999

§ 92.022 DRAINAGE RELATED INTERFERENCE WITH SIDEWALKS.

(A) No person may cause or permit gutters, ditches, ducts, or drain pipes to be constructed or placed on property under his or her control in such a manner that the water from the gutters, ditches, ducts or drain pipes empties onto or runs across a public sidewalk.

(B) All owners of property abutting concrete, brick, or other permanently improved public sidewalks shall grade the property or construct a retaining wall in such a manner as to prevent the washing of dirt, grass, gravel, or other material upon the town's sidewalks.

(Prior Code, § 7-3) Penalty, see § 92.999

§ 92.023 WARNINGS REQUIRED FOR OBSTRUCTION.

(A) All persons engaged in doing work that creates a dangerous condition or obstruction in the public right-of-way of any street or sidewalk shall take whatever action is necessary, including the placement of barricades and warning signs or devices, to warn the traveling public of the condition or obstruction.

(B) No person may remove, destroy, injure, or tamper with any barricade, sign, lantern, torch, or other device placed in any street or sidewalk to warn or give notice to the traveling public of any dangerous condition or obstruction.

(Prior Code, § 7-4) Penalty, see § 92.999

DRIVEWAYS AND EXCAVATIONS

§ 92.040 DRIVEWAYS.

(A) Except as otherwise provided in this section, no person may open, construct, alter, or relocate any driveway across any public sidewalk, or into any street, or cut any curb for the purpose without having obtained a written permit from the Town Clerk.

(B) Any person who receives a permit under this section shall be responsible for repairing any damage to the sidewalk or street (including curb and gutter) caused by the driveway construction.

(C) The Town Clerk shall review the driveway construction and design plans and shall issue the permit unless he or she finds the driveway, if constructed as proposed, will substantively interfere with or pose a danger to:

- (1) Persons using the street or sidewalk intersected by the driveway; or
- (2) Public facilities (including utility poles, traffic signal standards, and the like), or will fail to comply with any of the provisions of this section.

(D) No driveway may be constructed closer than three feet to a fire hydrant or catch basin or closer than 30 feet to the right-of-way line of a street that intersects with the street the driveway opens onto.

(E) If the driveway crosses a drainage ditch on a lot that abuts a street without curb or gutter, then piping of sufficient size and strength (as approved by the Town Clerk), shall be installed beneath the driveway surface so that the drainage capability of the drainage ditch is not materially impaired.

(F) This section shall not apply to driveways that open into state-maintained streets to the extent that the state has approved the driveway. Nor shall a person be required to obtain a permit under this section to the extent that the driveway is being constructed in accordance with plans approved pursuant to a review process authorized by a zoning or subdivision ordinance.

(Prior Code, § 7-11) Penalty, see § 92.999

#### § 92.041 EXCAVATIONS.

(A) Except as otherwise provided in this section, no person may dig in or excavate any street, right-of-way, or sidewalk within the town without having obtained a written permit from the Town Clerk.

(B) Any person who receives a permit in accordance with this section shall be responsible for putting the street, right-of-way, or sidewalk where any excavation is made in as good a condition as it was prior to the excavation.

(C) Before granting a permit pursuant to this section, the Town Clerk shall determine that the applicant has made arrangements to comply with division (B) above, and if the town is to do the necessary repair work, the permit shall not be issued until the applicant makes a deposit equal to the estimated cost of repair.

(D) This section shall not apply to any utility to the extent that the same subject matter is covered in a franchise ordinance applicable to that utility. Nor shall this section apply to any excavation made in a state-maintained street to the extent that the state has given its permission for such an excavation to be made, except that the person making the excavation shall still be responsible for notifying the Town Clerk of the intended excavation 48 hours before the work begins.

(Prior Code, § 7-12) Penalty, see § 92.999

#### § 92.042 TOWN INDEMNIFIED.

Any persons obtaining a permit authorized by §§ 92.040 and 92.041 agrees as a condition of the permit to indemnify the town for and hold the town harmless from any expense (including but not limited to attorney's fees, litigation costs and judgments) incurred as a result of claims made for damages arising out of operations conducted by the permit recipient pursuant to the permit.

(Prior Code, § 7-13)

#### STREET EVENTS

#### § 92.060 ACTIVITIES COVERED.

This subchapter applies to all street fairs, festivals, carnivals, parades, marches, rallies, demonstrations, and other activities or public events that require the temporary closing or obstruction of all or a portion of any street or other public right-of-way or that substantially hinders or prevents the normal flow of vehicular or pedestrian traffic along any street or other public right-of-way. Any activity covered by this subchapter shall hereafter be referred to as "the event."

(Prior Code, § 7-16)

#### § 92.061 PERMIT REQUIRED.

No person may run, operate, or sponsor any event in any public street or right-of-way without a permit obtained from the Board.

(Prior Code, § 7-17) Penalty, see § 92.999

§ 92.062 PERMIT APPLICATION.

Applications for the permit authorized by this subchapter shall be submitted on a form provided by the Town Clerk and shall contain the following information:

- (A) Name, address, and telephone number of the person, organization or entity seeking to conduct or sponsor the event;
- (B) Name, address, and telephone number of the individual in charge of the event;
- (C) The proposed date and time period when the event will be conducted;
- (D) The approximate number of people expected to attend the event;
- (E) When applicable, a request that the town provide specified services and/or that the town close identified streets or portions of streets for a particular period;
- (F) Sufficient proof of liability insurance in accordance with § 92.064; and
- (G) Any other information determined by the Town Clerk to be necessary to ensure compliance with this subchapter.

(Prior Code, § 7-18)

§ 92.063 NOTICE TO ABUTTING PROPERTY OWNERS.

Before issuing a permit under this subchapter, the Board shall notify all persons occupying property that abuts any street where the event is to take place that issuance of a permit is under consideration. The notice shall state the date, time and location of the Board meeting when action on the permit will be considered. The notice shall be mailed to the persons described above, or posted in the neighborhood of the persons, or otherwise published in a manner reasonably calculated to give the notice intended by this section.

(Prior Code, § 7-19)

§ 92.064 INSURANCE.

(A) The Board may require as a condition precedent or subsequent to issuance of the permit that the applicant obtain a comprehensive general liability insurance policy or comparable special events liability insurance policy issued by an insurance company authorized to do business in this state, with coverage that includes the entire area of the event.

(B) If such a policy is required, the town shall be named as an additional insured on the policy. The policy limits of the insurance shall not be less than:

- (1) Property damage: \$100,000 for each occurrence; and
- (2) Bodily injury or death: \$500,000 for each person and \$1,000,000

for each occurrence.

(Prior Code, § 7-20)

§ 92.065 FEES; COSTS INCURRED BY TOWN.

(A) If the town is required to provide extraordinary services or equipment or the town administration otherwise determines that extraordinary services or equipment should be provided for reasons related to public health or safety, the Board shall take whatever action is necessary under the local Government Budget and Fiscal Control Act to make available the necessary funds for the provisions of the services or equipment.

(B) The Board may require the applicant to pay the town a fee sufficient to reimburse the town for the costs of any extraordinary services or equipment provided

unless the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

(Prior Code, § 7-21)

§ 92.066 STANDARDS FOR ISSUANCE OF PERMIT.

- (A) The Board shall issue the permit authorizing the event unless it finds that:
- (1) Conduct of the event will require the assignment of so many police officers that the remainder of the town cannot adequately be protected;
  - (2) The event will interfere with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services can not be provided throughout the town;
  - (3) The applicant has failed to obtain any necessary permits or licenses, including any required building permit or privilege, or the applicant is otherwise in violation of any town ordinance;
  - (4) The event will work a severe hardship on persons occupying property adjacent to the site, location, or route of the event as a result of the denial of access to property or for other substantial reasons;
  - (5) The event, if held at the time or at the location or along the route proposed, will cause an unreasonable and unwarranted disruption to the vehicular or pedestrian traffic; or
  - (6) The applicant has failed to comply with any of the provisions of this subchapter, including the payment of any fees required.

(B) If a permit is issued in accordance with division (A) above, the Board may attach to it any reasonable conditions.

(C) If the Board finds that it cannot issue the permit for reasons specified in division (A) above, it may request the applicant to modify its application to remove any objections to the issuance of the permit, and the applicant may do so without further notice or hearing.

(D) Any event conducted pursuant to a permit issued under this section shall be conducted strictly in accordance with the terms of the permit, including any conditions attached thereto.

(Prior Code, § 7-22)

§ 92.067 STREET CLOSINGS.

(A) If the Board finds that the permit should be issued and that, to conduct the event, it is necessary to close a street or to reroute traffic, it may pass a resolution authorizing this to be done. No such resolution shall be passed affecting streets that are part of the state street system without the approval of the State Department of Transportation.

(B) The resolution shall identify the street or portion thereof to be effected and shall indicate the date and time when the street or portion thereof is to be closed or traffic thereon is to be limited in some way. The resolution shall also direct the manager to have appropriate traffic control devices installed to give notice of the temporary traffic controls.

(C) No person may operate any vehicle contrary to the traffic control devices installed in accordance with division (B) above.

(D) The Town Clerk shall, by any adequate means, notify persons occupying property abutting the street where the event is to take place of the contents of any resolution passed in accordance with this section.

(Prior Code, § 7-23)

§ 92.068 SPONSOR RESPONSIBLE FOR CLEANUP.

The sponsor of the event shall be responsible for cleaning up any litter caused by the event, removing all temporary obstructions, and in general returning the area where the event takes place to the condition that existed prior to the event. The Board may require the sponsor to post a bond or other sufficient security to guarantee compliance with this section.

(Prior Code, § 7-24)

DRIVEWAYS AND WALKWAYS

§ 92.086 OWNER AND TOWN INSTALLATIONS.

When it is necessary to put in tile on the street right-of-way for a driveway, the owner of the property will furnish up to 20 feet of tile and the town will install it at no further expense to the property owner. If more than one driveway is desired, up to 20 feet of tile will be furnished by the property owner for the additional driveway and the tile will be installed by (or under the supervision of) the town at the expense of the property owner.

(Ord. passed 9-5-1969)

§ 92.087 OWNER INSTALLATIONS.

When a property owner desires to put in tile on the street right-of-way for a walkway, the property owner will furnish the tile, and the tile will be installed by (or under the supervision of) the town at the expense of the property owner.

(Ord. passed 9-5-1969)

§ 92.999 PENALTY.

(A) A violation of any of the following sections shall constitute a misdemeanor, punishable as provided in G.S. § 14-4: §§ 92.001 and 92.002, §§ 92.020 et seq. and 92.040 et seq., and §§ 92.060 et seq.

(B) A violation of any of the sections listed in division (A) above shall also subject the offender to a civil penalty of \$50. If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.

(C) The town may seek to enforce this chapter through any appropriate equitable action.

(D) Each day a violation continues after the offender has been notified of the violation shall constitute a separate offense.

(E) The town may seek to enforce this chapter by using any one or any combination of the foregoing remedies.

(Prior Code, § 7-34)

CHAPTER 93: HEALTH AND SANITATION; NUISANCES

Section

General Provisions

93.001 Definitions

- 93.002 Summary abatement of conditions dangerous or prejudicial to public health
- 93.003 Notice required
- 93.004 Hearing procedures
- 93.005 Order
- Control of Solid Wastes, Scrap Materials, Noxious Growth
- 93.020 Accumulation of solid wastes
- 93.021 Dumping or littering on private property
- 93.022 Dumping or littering on streets, sidewalks and other public property
- 93.023 Transportation of solid waste within town
- 93.024 Burning or burying solid wastes
- 93.025 Scrap materials; declaration of policy
- 93.026 Accumulation of scrap materials
- 93.027 Noxious growth
- Storage and Collection of Solid Waste
- 93.045 Property owners provide adequate solid waste receptacles
- 93.046 Storage and collection practices
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- 93.048 Miscellaneous
- Abandoned and Junked Motor Vehicles Authorized
- 93.065 Statement of policy
- 93.066 Removal of abandoned and junked vehicles authorized
- 93.067 Notice required when vehicle removed
- 93.068 Disposal of abandoned motor vehicles
- 93.069 Disposal of junked motor vehicles
- 93.070 Exceptions for certain vehicles
- 93.071 Abandoned or junked motor vehicles dangerous or prejudicial to the public health or safety
- 93.072 Violations resulting from continuing conditions

93.999 Penalty

#### GENERAL PROVISIONS.

##### § 93.001 DEFINITIONS.

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

**ABANDONED MOTOR VEHICLE.** A vehicle that:

- (1) Is left on public grounds or town owned property in violation of a law or ordinance prohibiting parking;
- (2) Is left for longer than 24 hours on property owned or operated by the town;
- (3) Is left for longer than two hours on private property without the consent of the owner, occupant, or lessee of the property; or
- (4) Is left for longer than seven days on public grounds.

**GARBAGE.** All solid wastes capable of being rapidly decomposed by microorganisms, including but not limited to animal and vegetable waste resulting from handling, preparation, cooking, and consumption of food, as well as animal offal and carcasses, but excluding sewage and human wastes.

**JUNKED MOTOR VEHICLES.** An abandoned motor vehicle that also:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move;
- (3) Is more than five years old and appears to be worth less than \$100;

or

- (4) Does not display a current license plate when the motor vehicle is required by laws of this state to have such a license plate to operate on the public roads.

**MOTOR VEHICLES.** Any machine designed or intended to travel over land or water by self-propulsion.

**REFUSE.** All solid wastes except:

- (1) Garbage; and
- (2) Solids that are dissolved or suspended in domestic, commercial, or industrial waste water effluent.

**SCRAP MATERIALS.** Scrap materials are:

- (1) Pieces or fragments of metal, wood, glass, masonry, plastic, textiles, rope, leather, rubber, paper, or any other substance, that formerly were part of the construction of some useful object or thing or that consist of the excess resulting from the creation of some useful object or thing;

- (2) Object or things, including but not limited to machines, tools, equipment, hardware, furniture, appliances, and the like, or parts of the same that are no longer in serviceable condition or valuable only as raw materials for reprocessing; or

- (3) Motor vehicles or remnants thereof that:
  - (a) Do not display current license plates;
  - (b) Cannot without substantial repairs be made to operate in the manner originally intended; and/or
  - (c) Valuable only as raw materials for reprocessing, but that do not constitute solid wastes as herein defined because they are or may be useful to or wanted by or have not been discarded by the person in control of the premises where they have been located.

**SOLID WASTES.** Wastes that are non-gaseous and non-liquid (except that liquid waste resulting from the processing of food are deemed solid wastes for the purpose of this subchapter).

**TOWN CLERK.** The person designated by the Board to perform the functions and exercise the responsibilities assigned by this subchapter to the Town Clerk.

**WASTES.** All useless, unwanted, or discarded materials resulting from domestic, industrial, commercial or community activities.

(Prior Code, § 11-1)

#### § 93.002 SUMMARY ABATEMENT OF CONDITIONS DANGEROUS OR PREJUDICIAL TO PUBLIC HEALTH.

If the Board concludes, after notice and hearing as provided in this part, that any condition or situation prohibited by this subchapter or any other condition or situation is dangerous or prejudicial to the public health or safety, it may order town officials to summarily remove, abate, or remedy everything so found within the town limits.

(Prior Code, § 11-38)

#### § 93.003 NOTICE REQUIRED.

Before the action authorized by § 93.002 is taken, notice shall be sent to the respondent, informing them:

(A) What condition or situation is alleged to be dangerous or prejudicial to the public health or safety;

(B) When and where the Board will meet to hold a hearing on the issue of whether the condition cited is dangerous or prejudicial to public health;

(C) That if the Board determines that the cited condition is dangerous or prejudicial to public health or safety, it may order town officials to summarily abate, remedy, or correct the offending conditions; and

(D) That the expenses incurred by the town in connection with the actions described in division (C) above, if not paid by the respondent, shall become a lien upon the land where the offending condition is located, to be collected as unpaid taxes. This notice shall be sent by mail (certified, deliver to addressee only, return receipt requested not later than five calendar days prior to the scheduled hearing or delivered to the respondent by a town officer or employee, not later than three days prior to the scheduled hearing. For purposes of this part, the respondent is the person who is responsible for the offending condition, as well as the owner of the property where the offending condition is located, if different from the former.

(Prior Code, § 11-39)

#### § 93.004 HEARING PROCEDURES.

At the hearing held pursuant to this part, the town administration shall be responsible for presenting sufficient evidence to the Board to substantiate a finding that a condition exists that is dangerous or prejudicial to the public health or safety. The Board may consider all reliable evidence and need not be bound by the strict rules of evidence applicable to court of law, but all witnesses shall be sworn. The respondent may be represented by counsel and may present evidence. All parties may cross examine adverse witnesses. At the conclusion of the hearing, the Board shall make findings of fact, state its conclusions, and enter an appropriate order. The Board's findings of fact, conclusions, and order shall be reduced to writing and a copy sent by mail or delivered to the respondent within three days following the hearing.

(Prior Code, § 11-40)

#### § 93.005 ORDER.

If the Board concludes that a situation or condition exists that is dangerous or prejudicial to the public health or safety, it may:

(A) Order appropriate town officials or employees to summarily remove, abate, or remedy everything so found and to assess the cost of this action against the respondent in accordance with §93.002 of this subchapter; or

(B) Order the respondent to correct the situation within a specified time period and order town officials to abate, correct, or remedy the offending condition if the respondent fails to act within the prescribed time limits.

(Prior Code, § 11-41)

#### CONTROL OF SOLID WASTES, SCRAP MATERIALS, NOXIOUS GROWTH

#### § 93.020 ACCUMULATION OF SOLID WASTES.

(A) Subject to the qualifications contained in division (B) below, no person may cause, suffer, or permit solid waste to accumulate or remain on premises under his or her control except in accordance with the provisions of §§ 93.045 et seq.



(B) Natural solid waste materials resulting from lawn or garden work, such as brush and tree trimmings, leaves, grass, stumps, dirt and stones may be allowed to accumulate or remain on premises under a person's control, unless the materials become or threaten to become a fire hazard or a harboring place for rats, mice, snakes or other vermin or otherwise pose a danger to the public health or safety.

(Prior Code, § 11-2) Penalty, see § 93.999

**§ 93.021 DUMPING OR LITTERING ON PRIVATE PROPERTY.**

No person may place, discard, throw, drop, or deposit, or cause to be placed, discarded, thrown, dropped or deposited any solid wastes on any property not owned by him or her without the consent of the owner, occupant, or lessee thereof.

(Prior Code, § 11-3) Penalty, see § 93.999

**§ 93.022 DUMPING OR LITTERING ON STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTY.**

(A) No person may place, discard, throw, drop, or deposit, or cause to be placed, discarded, thrown, dropped, or deposited any solid waste on any public street or sidewalk within the town or on any property owned or operated by the town or any other public property, except in properly designated receptacles.

(B) G.S. § 14-399 also makes it a misdemeanor to place or leave any solid waste on the right-of-way of any public street and authorizes a maximum fine of \$200 for violations.

(Prior Code, § 11-4) Penalty, see § 93.999

**§ 93.023 TRANSPORTATION OF SOLID WASTE WITHIN TOWN.**

No person may transport or cause to be transported any solid wastes on the public streets of the town unless the solid wastes are so secured that no solid wastes escape from the transporting vehicle. In addition, any garbage so transported shall be carried in closed containers that prevent the escape of noxious odors or liquids.

(Prior Code, § 11-5) Penalty, see § 93.999

**§ 93.024 BURNING OR BURYING SOLID WASTES.**

(A) No person may burn or cause to be burned any garbage for purposes of disposal, and no person may burn or cause to be burned any refuse except as specifically authorized by Chapter 91 of this code.

(B) No person may bury or cause to be buried any solid waste for purposes of disposal.

(Prior Code, § 11-6) Penalty, see § 93.999

**§ 93.025 SCRAP MATERIALS; DECLARATION OF POLICY.**

The Board hereby declares that the uncontrolled accumulation of scrap materials on any premises constitutes a danger to the health, safety, and welfare of the citizens of the town in that the accumulations can furnish shelter and breeding places for vermin, present physical dangers to the safety and well-being of children and other citizens, pose a danger of fire, and depreciate property values or cause a loss of business by detracting from the appearance and the character of residential and commercial neighborhoods.

(Prior Code, § 11-7)

**§ 93.026 ACCUMULATION OF SCRAP MATERIALS.**

No person may cause, suffer, or permit scrap materials to accumulate or remain on premises under his or her control unless the scrap materials are:

(A) Surrounded by a fence of sufficient height, strength, and construction to deny persons, especially small children, access to them and to shield neighboring properties from the view of them; or

(B) Are so stored within a structure or within a container outside of a structure as to minimize substantially the dangers set forth in § 93.025.

(Prior Code, § 11-8) Penalty, see § 93.999

#### § 93.027 NOXIOUS GROWTH.

No person may cause, suffer, or permit on premises under his or her control any growth of weeds, grasses, or other plants or bushes that becomes or threatens to become a fire hazard or a harboring place for rats, mice, snakes, or other vermin or otherwise poses a danger to the public health or safety. The Board hereby declares that any growth of weeds or grasses in excess of 12 inches in height constitutes a potential danger to public health or safety, as described in this section, and is therefore prohibited.

(Prior Code, § 11-9) Penalty, see § 93.999

#### STORAGE AND COLLECTION OF SOLID WASTE

##### § 93.045 PROPERTY OWNERS PROVIDE ADEQUATE SOLID WASTE RECEPTACLES.

(A) The owner of every premises shall be responsible for providing adequate solid waste receptacles in accordance with this section to store the solid wastes generated by activities taking place on the premises between scheduled pickups.

(B) Subject to division (D) below, every premises shall be served by at least one of the receptacles specified in division (C) below, and the Town Clerk may require the owner to provide more than one if necessary to meet the objective stated in division (A) above.

(C) The receptacle required by this section shall be a 30- to 32-gallon container made of galvanized metal, plastic, rubber or other material resistant to rust, corrosion, or rapid deterioration. Each required container shall be watertight and provided with handles and a tightfitting cover.

(D) The Town Clerk may require any nonresidential premises to be served by dumpsters if the premises should require more than three of the receptacles specified in division (C) above to comply with a requirement of division (A) above.

(Prior Code, § 11-16)

##### § 93.046 STORAGE AND COLLECTION PRACTICES.

(A) Garbage may be stored pending collection by the town only in the receptacles described in § 93.045. Refuse may be stored (between scheduled collections only) in any appropriate and convenient fashion.

(B) Containers other than those described in § 93.045 will be treated as solid wastes and collected by the town.

(C) Grass cuttings, hedge clippings, tree trimmings, and similar materials less than four inches in diameter and 60 inches in length will be collected by the town as part of the regular collections service if placed to facilitate collection.

(D) Loose leaves will be collected by the town on days specified for the collection if placed adjacent to the street so they may be easily handled by the collector. No tree limbs, shrubs, or other material may be mixed with the leaves.

(E) Containers weighing more than 75 pounds and heavy or bulky items such as tree trunks, tree trimmings, or hedge cuttings more than 60 inches in length or four

inches in diameter, furniture, and similar items will be collected only in accordance with § 93.047.

(Prior Code, § 11-17)

§ 93.047 SPECIAL COLLECTIONS.

Solid wastes that are too bulky or too heavy or too cumbersome to be collected by the town as part of its regular collections service may be collected by the town pursuant to a request made to the Town Clerk and payment of a fee for this service. The fee will be determined by the Town Clerk, based upon the nature and amount of the materials to be collected and the estimated time required to perform the service, but in all cases a fee of at least \$25 shall be charged. This fee must be paid in advance of the service. The town reserves the right to refuse any request made pursuant to this section and the failure of the town to provide this service shall not relieve any person of any of the obligations imposed by this subchapter.

(Prior Code, § 11-18)

§ 93.048 MISCELLANEOUS.

(A) Collection routes and schedules. The Town Clerk shall establish collection routes and schedules and may alter these routes and schedules from time to time. A copy of the current routes and schedules shall be kept on file in the office of the Town Clerk.

(B) Determination. Whenever this subchapter authorizes the Town Clerk to make a discretionary determination, all persons affected by the determination shall comply with it within 15 calendar days after receiving written notice of the determination and the reasons for it. Thereafter a failure on the part of any person receiving the notice to comply with the determination shall constitute a violation of this subchapter.

(C) Solid waste. No person may damage, displace, or otherwise interfere with solid waste receptacles or solid waste stored or prepared for collection except with the consent of the owner, lessee, or occupant of the premises where those receptacles or solid wastes are located.

(Prior Code, § 11-19) Penalty, see § 93.999

ABANDONED AND JUNKED MOTOR VEHICLES AUTHORIZED

§ 93.065 STATEMENT OF POLICY.

Abandoned and junked motor vehicles constitute a hazard to the health and welfare of the people of the town in that the vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens. It is therefore in the public interest that the present accumulation of abandoned and junked motor vehicles be eliminated and that the future abandonment of the vehicles be prevented.

(Prior Code, § 11-26)

§ 93.066 REMOVAL OF ABANDONED AND JUNKED VEHICLES AUTHORIZED.

(A) Subject to division (B) below, whenever it is made to appear to appropriate town officials that abandoned or junked motor vehicles exist within town limits, the town may have the vehicles removed to a storage yard or area and thereafter may dispose of them in accordance with the provisions of this subchapter.

(B) No motor vehicle may be removed from private property without the written request of the owner, lessee, or occupant of the premises except in accordance with §§ 93.001 et seq.

(C) The town may require any person requesting the removal of a junked or abandoned motor vehicle from private property to indemnify the town against any loss, expense, or liability incurred because of the removal, storage, or sale thereof.

(Prior Code, § 11-27) Penalty, see § 93.999

§ 93.067 NOTICE REQUIRED WHEN VEHICLE REMOVED.

When any junked or abandoned motor vehicle is removed in accordance with this subchapter, the town shall promptly give written notice of the removal to the owner of the vehicle at his or her last known address, according to the latest registration certificate or certificate of title on file with the appropriate state division of motor vehicles, or if the vehicle is not required to be registered, according to the best information reasonably available concerning the owner's last known address. The notice shall inform the owner of the possible sale and disposition that may be made of the vehicle under this subchapter. The notice shall also inform the owner that he or she may regain possession of the vehicle by paying to the town or to a towing service operator, as agent of the town, all reasonable costs incidental to the removal and storage of the vehicle.

(Prior Code, § 11-28)

§ 93.068 DISPOSAL OF ABANDONED MOTOR VEHICLES.

(A) After holding an abandoned motor vehicle for 30 days after the day the vehicle is removed, the town may sell or dispose of it as provided in this section. If the vehicle was removed by a private towing operator, as agent of the town, the vehicle may be sold or disposed of as provided by G.S. Chapter 44A.

(B) If the vehicle appears to be worth less than \$100, the town may dispose of it as a junked motor vehicle as provided in § 93.069. With the consent of the owner, the town may remove and dispose of any motor vehicle as a junked motor vehicle, without regard to the value, condition, or age of the vehicle, and without holding it for any prescribed period of time.

(C) If the vehicle is worth \$100 or more, it shall be sold at public auction. Twenty days written notice of the sale shall be given to the registered owner at his or her last known address, the holders of all liens of record against the vehicle, and the appropriate State Division of Motor Vehicles.

(D) Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date.

(E) The proceeds of the sale shall be paid to the town Finance Director, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale, and liens of record, in that order. The remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the town for 60 days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within 60 days after the sale, the funds shall be deposited in the town's general fund and the owner's rights shall forever be extinguished.

(F) When it receives the town's bill of sale from a purchaser or other person entitled to receive any vehicle disposed of as provided in this section, the appropriate state division of motor vehicles will issue a certificate of title for the vehicle as required by law.

(Prior Code, § 11-29)

§ 93.069 DISPOSAL OF JUNKED MOTOR VEHICLES.

(A) After holding an unclaimed junked vehicle for 15 days, the town may destroy it or sell it at private sale as junk.

(B) Within 15 days after final disposition as a junked motor vehicle, the town shall notify the appropriate state division of motor vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of as such. The notice shall contain as simple and accurate a description of the vehicle as can reasonably be determined.

(C) Any proceeds from the sale of a junked motor vehicle shall be paid to the town finance director, who shall pay to the appropriate officers or persons the cost of removal, storage, investigations, sale, and liens of record in that order. The remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the town for 30 days if the registered owner cannot be located with reasonable diligence. If the owner does not appear to claim the proceeds within 30 days after disposal of the vehicle, the money shall be deposited in the town's general fund and the owner's rights forever extinguished.

(Prior Code, § 11-30)

#### § 93.070 EXCEPTIONS FOR CERTAIN VEHICLES.

(A) When a vehicle that is required to display a license plate to operate on the public roads of the state does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, the provisions of §§ 93.067, 93.068 and 93.069 need not be followed, and the vehicles may be destroyed or sold at private sale (without regard to value) after being held for 48 hours.

(B) The provisions of this subchapter shall not apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to a vehicle in any appropriate storage place or depository maintained in a lawful place and manner by the town.

(Prior Code, § 11-31)

#### § 93.071 ABANDONED OR JUNKED MOTOR VEHICLES DANGEROUS OR PREJUDICIAL TO THE PUBLIC HEALTH OR SAFETY.

Nothing contained in this subchapter shall be construed to limit the authority of the town to effect the removal or abatement of any abandoned or junked motor vehicle, regardless of whether the motor vehicle is located on private property with the consent of the owner, lessee, or occupant thereof, if the motor vehicle is found to constitute a situation dangerous or prejudicial to the public health or safety in accordance with §§ 93.001 et seq. 93.072 because it is found to be:

(A) A breeding ground or harbor for mosquitoes for other insects, snakes, rats, or other pests;

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

(C) A point of collection for pools or ponds of water;

(D) A point of concentration of gasoline, oil, or other flammable or explosive materials;

(E) So located that there is danger of the vehicle falling or turning over;

(F) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside r from exposed surfaces of metal, glass, or other materials; or

(G) A danger to the public health or safety for other reasons.

(Prior Code, § 11-32)

#### § 93.072 VIOLATIONS RESULTING FROM CONTINUING CONDITIONS.

(A) Whenever a violation of this subchapter results from a continuing condition rather than a discrete event, a written notice shall be sent to the last known address of the responsible person, specifying the nature of the violation and what must be done to correct it, requiring the responsible person to correct the violation within ten calendar days after delivery of the notice, and informing the responsible person of the possible consequences of his or her failure to comply.

(B) Whenever a violation of this subchapter results from a continuing condition rather than a discrete event, the penalties and remedies provided for in § 93.999 may not be invoked until after the ten-day correction period specified in the section has expired.

(Prior Code, § 11-37)

#### § 93.999 PENALTY.

(A) A violation of any of the following provisions of this chapter shall constitute a misdemeanor, punishable as provided in G.S. § 14-4: §§ 93.020 and 93.045.

(B) A violation of any of the provisions specified in division (A) above shall also subject the offender to a civil penalty of \$25. If the offender fails to pay this penalty within 15 calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of debt.

(C) Each day the violation continues after a person has been notified that the violation exists and that he or she is subject to the penalty specified in divisions (A) and (B) above of this section shall constitute a separate offense.

(D) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(E) The town may enforce this chapter by any one or any combination of the foregoing remedies.

(Prior Code, § 11-36)

### CHAPTER 94: TREES AND SHRUBS

#### Section

94.01 Purpose

94.02 Definitions

94.03 Creation and establishment of a Townscape Committee

94.04 Public tree care

94.05 Tree topping

94.06 Removal of stumps

94.07 Interference with Townscape Committee

94.08 Review by Town Board

94.09 Authority and enactment clause

#### § 94.01 PURPOSE.

(A) The purpose of this chapter 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 chapter provides for the pruning, treatment and removal of trees and shrubs as is deemed necessary by the Town Board or a person acting under the authority of the Town Board. This chapter 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 chapter 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 chapter 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.

(C) This chapter shall further provide for the establishment of an advisory committee known as the Townscape Committee who shall be responsible for promoting trees and tree care throughout the municipality and for developing a town tree plan.

(Ord. passed 9-4-1980)

#### § 94.02 DEFINITIONS.

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

**PARK TREES.** Trees, shrubs, and bushes in public parks having individual names, and all areas owned by the town, or to which the public has free access as a park.

**STREET TREES.** Trees, shrubs, and bushes on land lying within rights-of-way on either side of all streets, avenues, or ways within the town.

(Ord. passed 9-4-1980)

#### § 94.03 CREATION AND ESTABLISHMENT OF A TOWNSCAPE COMMITTEE.

(A) There is hereby created and established a Townscape Committee for the Town of Washington Park, North Carolina, which shall consist of five members, citizens, and residents of this town, who shall be appointed by the Mayor with the approval of the Town Board.

(B) Ex-officio members may be appointed as necessary.

(1) Term of office. The term of the five persons to be appointed by the Mayor shall be three years except that the term of two of the members appointed to the first Board shall be for only one year. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

(2) Compensation. Members of the Board shall serve without compensation.

(3) Duties and responsibilities.

(a) It shall be the responsibility of the Townscape Committee to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in the parks, along streets and other public areas. The plans will be presented to the Town Board, and upon its acceptance and approval shall constitute the official comprehensive town tree plan for the Town of Washington Park, North Carolina.

(b) The Townscape Committee, when requested by the Town Board, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

(c) The Townscape Committee shall furthermore serve as an advisory board to the Town Board 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 of Washington Park 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; and

5. To conduct continuing research, planning, and feasibility studies required to support the purpose stated herein.

(d) The Townscape Committee shall also be responsible for developing an official street tree species list comprised of three groups of trees: small trees, medium trees, and large trees. No trees other than those included in the list may be planted as street trees without permission from the Townscape Committee. The Townscape Committee will be responsible for establishing guidelines for the spacing of town trees in accordance with the three species size classes in the official street tree species list. These guidelines will cover spacing between street trees, the distance street trees may be planted from curbs or curb lines and sidewalks, the distance street trees may be planted from any street corner, the location of street trees relative to overhead and underground water line, sewer lines, transmission line, or other utility, and any other areas involving the spacing of street trees, park trees, or town owned trees.

(e) The Townscape Committee shall submit an annual report of its activities and recommendations to the Town Board and shall submit copies of its minutes and proceedings of its regular and special meetings.

(4) Operation. The Townscape Committee shall adopt rules for the transaction of its business and shall keep the record of its members attendance and of its resolutions, discussions, findings, and recommendations, but record shall be a public record. The Townscape Committee shall set a regular schedule for meetings and the Chairperson may call a special meeting upon request of a majority of members of the Board. A majority of the members shall be a quorum for the transaction of business.

(Ord. passed 9-4-1980)

#### § 94.04 PUBLIC TREE CARE.

(A) The town shall have the right to plant, prune, maintain and remove trees, plants, and shrubs with the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of the public grounds.

(B) The town on the advice of the Townscape Committee may remove or cause 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, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pests. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of the trees is in accordance with the guidelines for planting and spacing developed by the Townscape Committee.  
(Ord. passed 9-4-1980)

§ 94.05 TREE TOPPING.

It shall be unlawful as normal practice except as described below for any person, firm, 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 chapter at the determination of the Townscape Committee.

(Ord. passed 9-4-1980) Penalty, see § 10.99

§ 94.06 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. passed 9-4-1980) Penalty, see § 10.99

§ 94.07 INTERFERENCE WITH TOWNSCAPE COMMITTEE.

It shall be unlawful for any person to prevent, delay or interfere with the Townscape Committee, or any of its agents, while engaging in and about the planting, cultivation, mulching, pruning, spraying, or removing any street trees, park trees, or trees on public grounds, as authorized in the ordinance.

(Ord. passed 9-4-1980) Penalty, see § 10.99

§ 94.08 REVIEW BY TOWN BOARD.

The Town Board shall have the right to review the conduct, acts and decisions of the Townscape Committee. Any person may appeal from any ruling or order of the Townscape Committee to the Town Board who may hear the matter and make a final decision.

(Ord. passed 9-4-1980)

§ 94.09 AUTHORITY AND ENACTMENT CLAUSE.

The Board of Commissioners of Washington Park, North Carolina, pursuant to the authority granted by G.S. Chapter 160A, does hereby ordain and enact into law the foregoing.

(Ord. passed 9-4-1980)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. GARAGE AND YARD SALES

111. ITINERANT MERCHANTS

CHAPTER 110: GARAGE AND YARD SALES

Section

General Provisions

110.01 Definitions

Regulations

- 110.15 Hours of operation
- 110.16 Permit required; fee
- 110.17 Revocation, refusal of permit
- 110.18 Display of permit
- 110.19 Property permitted to be sold; display
- 110.20 Advertising and signs
- 110.21 Public nuisance
- 110.22 Inspections; arrest authority of inspector
- 110.23 Parking
- 110.24 Exemptions

## GENERAL PROVISIONS

### § 110.01 DEFINITIONS.

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

**GARAGE SALES or YARD SALES.** All general sales open to the public conducted on or off residential premises in any residential zone as defined by the zoning ordinance, for the purpose of disposing of personal property, including, but not limited to, all sales entitled GARAGE, LAWN, YARD, ATTIC, PORCH, ROOM, BACKYARD, RUMMAGE, PATIO or ESTATE SALES.

**PERSONAL PROPERTY.** Property which is owned, utilized, and maintained by an individual or members of his or her residence and acquired in a normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment. Nor does it include items made specifically for sale at a sale as defined above.

### REGULATIONS

#### § 110.15 HOURS OF OPERATION.

Sales shall be limited in time to no more than the daylight hours of two consecutive days. If the sale is not held because of inclement weather on the date for which the permit is issued (as set forth in § 110.16) or is terminated during the first day of the sale because of inclement weather conditions, and an affidavit by the permit holder to this effect is presented, the Town Clerk may issue another permit to the applicant for a sale to be conducted at the same location within 30 days from the date the first sale was to be held. In this case, no additional permit fee would be required.

#### § 110.16 PERMIT REQUIRED; FEE.

(A) No sale shall be conducted unless and until the individual desiring to conduct the sale obtains a permit therefore from the Town Clerk. Prior to issuance of any sale permit, the individual desiring to conduct the sale shall file a written application with the Town Clerk at least five days in advance of the proposed sale, or, if mailed, application must be postmarked at least seven days in advance of the sale, setting forth the following information:

- (1) Full name and address of applicant;
- (2) The location at which the proposed sale is to be held;
- (3) The date or dates on which the sale shall be held;
- (4) The date or dates of any other sales within the current calendar

year; and

(5) An affirmative statement that property to be sold is owned by the applicant as his or her own personal property and was neither acquired nor consigned for the purpose of resale.

(B) Before issuing a permit, the Town Clerk shall determine that the application is in all respects proper, and that the applicant is qualified under this chapter for a permit.

(C) There shall be an administrative processing fee of \$5 for the issuance of the permit. The permit shall set forth and restrict the time and location of the sale. No more than two permits may be issued to one resident or family household during the calendar year. If members of more than one residence join in requesting a permit, the permit shall be considered as having been issued for each and all of the residences.

#### § 110.17 REVOCATION, REFUSAL OF PERMIT.

Any permit issued under this chapter may be revoked or any application for issuance of a permit may be refused by the Town Clerk if the application submitted by the applicant or permit holder contains any false, fraudulent, or misleading statements. If any individual is convicted of an offense under this chapter, the Town Clerk shall cancel any existing sale permit held by the individual convicted and shall not issue that individual another sale permit for a period of two years from the time of conviction.

#### § 110.18 DISPLAY OF PERMIT.

Any permit in possession of the holder or holders for a sale hereunder shall be posted on the premises where the sale is authorized in a conspicuous place so as to be seen from the street in front of the premises by the public.

#### § 110.19 PROPERTY PERMITTED TO BE SOLD; DISPLAY.

(A) It shall be unlawful for an individual to sell, or offer for sale under authority granted by this chapter, property other than personal property.

(B) Personal property offered for sale may be displayed within the residence, in a garage on the same premises, carport, or in the front or rear yard, but only in those designated areas. No personal property offered for sale under this section shall be displayed on the side yard area of any premises or in any public right-of-way. A vehicle offered for sale, however, may be displayed on a permanently constructed driveway within the front or side yard. (Revised and adopted 8/1/11)

#### § 110.20 ADVERTISING AND SIGNS.

Signs and advertising shall be permitted only as provided in the sign ordinance section of the zoning code for the town, and with the following limitations:

(A) No sign or other form of advertisement, except media advertising, shall be exhibited for more than two days prior to the day the sale is to commence.

(B) Signs must be removed each day at the close of the sale activities or by the end of daylight, whichever occurs first.

#### § 110.21 PUBLIC NUISANCE.

The individual to whom a permit is issued and the owner or tenant of the premises on which the sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of the sale. No individual shall permit any loud or boisterous conduct on the premises nor permit vehicles to impede the passage of traffic on any roads or streets in the area of the premises. All individuals shall obey the reasonable orders of any member of the Sheriff's office in order to maintain the public health, safety, and welfare.

§ 110.22 INSPECTIONS; ARREST AUTHORITY OF INSPECTOR.

A Sheriff or any other official designated by any town ordinance to make inspections under the licensing or regulating ordinance or to enforce the ordinances shall have the right of entry to any premises showing evidence of a sale for the purpose of enforcement or inspection. He or she may summarily stop the sale and take those steps as are necessary against any individual who violates the provisions of this chapter.

§ 110.23 PARKING.

All parking of vehicles shall be conducted in compliance with applicable laws and ordinances. Further, the Sheriff's Office shall have authority to enforce temporary controls to alleviate any special hazard or congestion created by any sale.

§ 110.24 EXEMPTIONS.

The following are exempted from the provisions of this chapter:

- (A) Any person selling goods pursuant to an order of process of a court of competent jurisdiction;
- (B) Any person acting in accordance with his or her powers and duties as a public official;
- (C) Any sale conducted by a duly licensed merchant or mercantile or other business establishment from or at a place of business wherein the sale will be permitted by the zoning regulations of the town or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer, or vendor in which the sale would be conducted from properly zoned premises and not otherwise prohibited in other ordinances.

CHAPTER 111: ITINERANT MERCHANTS

Section

General Provisions

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## GENERAL PROVISIONS

### § 111.01 ENTERING PRIVATE PROPERTY PROHIBITED WHEN POSTED.

(A) It is hereby declared to be the policy of the town that the occupants of the residences in the town shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.

(B) Notice of the refusal of invitation to solicitors, to any residence, shall be given on a weatherproof card, approximately three inches by four inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

“NO SOLICITORS INVITED”

(C) The card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon. Penalty, see § 10.99

## CHARITABLE AND RELIGIOUS SOLICITATIONS

### § 111.15 DEFINITIONS.

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

**CHARITABLE.** Includes philanthropic, social services, or welfare, either actual or purported.

**CONTRIBUTIONS.** Alms, food, clothing, money, property, subscription, or pledge, and also donations under the guise of loans of money or property.

**PERSON.** Any individual, firm, co-partnership, corporation, company, association, joint stock association, church, religious sect, religious denomination, society, organization, or league, and includes any trustee, receiver, assignee, agent, or other similar representative thereof.

**PROMOTER.** Any person who promotes, manages, supervises, organizes, or attempts to promote, manage, supervise, or organize a campaign of solicitation.

**RELIGIOUS and RELIGION.** Shall not mean and include CHARITABLE, as herein defined, but shall be given their commonly accepted definitions.

**SOLICIT and SOLICITATION.**

(1) The request, directly or indirectly, of money, credit, property, financial assistance, or other thing of value on the plea or representation that the money, credit, property, financial assistance, or other thing of value will be used for a charitable or religious purpose, as those purposes are defined in this section. These words shall also mean and include the following methods of securing money, credit, property, financial assistance, or other thing of value:

(a) Any oral or written request; and

(b) The making of any announcement to the press, over the radio, by television, by telephone, or telegraph concerning an appeal or campaign to which the public is requested to make a contribution for any charitable or religious purpose connected therewith.

(2) SOLICITATION as defined herein shall be deemed to have taken place when the request is made, whether or not the person making the same receives any contribution referred to in this section.

### § 111.16 INVESTIGATIONS AND PUBLICATION OF FINDINGS.

(A) The Town Clerk is authorized to investigate the affairs of any person soliciting for religious purposes under a certificate issued pursuant to §§ 111.60 through 111.63 and the affairs of any person exempted from the requirement of a permit under § 111.35 or exempted from the requirement of a certificate under § 111.60 and make public his or her written findings in order that the public may be fully informed as to the affairs of those persons. Those persons shall make available to the Town Clerk, or to any representative designated by the Clerk in writing for the specific purpose, all books, records, or other information reasonably necessary to enable the Clerk to fully and fairly inform the public of all facts necessary to a full understanding by the public of the work and methods of operation of the persons.

(B) Five days before the public release of any findings under this section, the Town Clerk may serve a copy of his or her findings on the person investigated and, at the time of the release of his or her findings, he or she must release a copy of any written statement the person may file with the Clerk in explanation, denial, or confirmation of the findings.

#### § 111.17 INSPECTION OF BOOKS AND RECORDS.

Upon request by the Town Clerk, the holder of a permit required by § 111.35 for a charitable solicitation shall make available for inspection by the Clerk, or any person designated in writing by the Clerk to act in his or her behalf, all of the permit holder's books, records, and papers, at any reasonable time while the permit is in effect or after it has expired.

Penalty, see § 10.99

#### § 111.18 REPORT REQUIRED AT CONCLUSION OF CHARITABLE SOLICITATIONS.

It shall be the duty of all persons issued permits for charitable solicitations to furnish to the Town Clerk, within 60 days after the solicitation has been completed, a detailed report and financial statement showing the amount raised by the solicitation, the amount expended in collecting funds, including a detailed report of the wages, fees, commissions, and expenses paid to any person in connection with the solicitation, and the disposition of the balance of the funds collected by the solicitation. This report shall be available for public inspection at the Town Clerk's office.

Penalty, see § 10.99

#### § 111.19 ACCOUNTING SYSTEM FOR CHARITABLE SOLICITATIONS.

No person shall solicit any contributions for any charitable purpose without maintaining a system of accounting whereby all donations and all disbursements are entered on the books or records of the person's treasurer or other financial officer.

Penalty, see § 10.99

#### § 111.20 MISREPRESENTATIONS, DECEPTIONS, OR FRAUD.

No person shall directly or indirectly solicit contributions for any purpose by misrepresentation of his or her name, occupation, financial condition, social condition, or residence, and no person shall make or perpetrate any other misstatement, deception, or fraud in connection with any solicitation of any contribution for any purpose in the town, or in any application or report filed under this subchapter.

Penalty, see § 10.99

#### PERMITS FOR CHARITABLE SOLICITATIONS

#### § 111.35 REQUIRED; EXCEPTIONS.

(A) No person shall solicit contributions for any charitable purpose within the town without a permit from the Town Clerk authorizing the solicitation. However, the provisions of this section shall not apply to any established organization organized and operated wholly or partially for religious or charitable purposes and not operated for the pecuniary profit of any person, if the solicitations are conducted only among the members of the organization by other members or officers thereof, voluntarily and without remuneration for making solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies or services of the established organization.

(B) When a permit has been issued to other than an individual, the individual agents and solicitors for the permit holder shall not be required to obtain individual permits.

Penalty, see § 10.99

#### § 111.36 APPLICATION.

(A) Application for a permit required by this division shall be made to the Town Clerk on forms prescribed by him or her. The application shall be sworn to or affirmed and filed with the Clerk at least 15 days prior to the time at which the permit applied for becomes effective. However, the Clerk may, for good cause shown, allow the filing of an application less than 15 days prior to the effective date of the permit applied for. The application shall contain the following information, or in lieu thereof, a statement satisfactory to the Clerk of the reason or reasons why the information or any item thereof is not furnished:

(1) A financial statement for the last preceding fiscal year of any funds collected for charitable purposes by the applicant, giving the amount of money so raised, together with the cost of raising it, and final distribution thereof;

(2) A full statement of the general character and extent of the charitable work being done or to be done by the applicant, and showing how much thereof is being done or to be done within the town;

(3) A statement that the actual cost of the solicitation will not exceed 25% of the total amount to be raised, or, if the cost of solicitation is expected to exceed 25%, a statement of what the maximum cost is expected to be, together with a statement of any special facts tending to show that there are peculiar reasons which make a cost higher than 25% reasonable in the particular case;

(4) A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement by the town or by any employee or officer thereof;

(5) A statement to the effect that if a permit is granted, no person under the age of 16 will be permitted to solicit money; and

(6) Other information as may be reasonably required by the Town Clerk in order for him or her to determine the kind and character and method of the proposed solicitation, when it will take place and for what period of time, and whether the solicitation is in the interest of, and not inimical to, the safety, convenience, or welfare of the inhabitants of the town.

(B) If, while any application is pending, or during the term of any permit granted thereon, there is any change in fact, policy, or method that would alter the information given in the application, the applicant shall notify the Town Clerk in writing thereof within 24 hours after the change.

Penalty, see § 10.99

§ 111.37 INVESTIGATION OF APPLICATION AND APPLICANT.

The Town Clerk shall examine all applications for permits under this division and shall make, or cause to be made, further investigation of the application and the applicant as he or she deems necessary in order for him or her to perform his or her duties under this subchapter. Upon request by the Clerk, the applicant shall make available for inspection by the Clerk, or any person designated in writing by the Clerk as his or her representative for the purpose, all of the applicant's books, records, and papers at any reasonable time before the application is approved and the permit issued.

Penalty, see § 10.99

§ 111.38 ISSUANCE OR DENIAL OF PERMIT; APPEAL.

(A) The Town Clerk shall issue the permit required by this subchapter, whenever he or she shall find the following facts to exist:

- (1) That all of the statements made in the application are true;
- (2) That the applicant, or if the applicant is not an individual person, that its managing officers and managing agents are of good character and reputation for honesty and integrity, and that all solicitors have proper credentials showing they are authorized to solicit in the name of the applicant;
- (3) That the control and supervision of the solicitation will be under responsible and reliable persons;
- (4) That the applicant has not engaged in any fraudulent transaction or enterprise;
- (5) That the solicitation will not be a fraud on the public;
- (6) That the solicitation is prompted solely by a desire to finance the charitable cause described in the application, and will not be conducted primarily for private profit;
- (7) That the cost of raising the funds will be reasonable. Any cost in excess of 25% of the amount collected shall be considered to be unreasonable unless special facts are presented showing to the satisfaction of the Clerk that peculiar reasons make a cost higher than 25% reasonable in the particular case; and
- (8) That the kind, character, and method of the proposed solicitation, the time when it will take place, and its duration are such that the solicitation will be in the interest of and not inimical to the safety, convenience, or welfare of the inhabitants of the town.

(B) The Town Clerk shall file in his or her office for public inspection a written statement of his or her findings of fact and his or her decisions on each application. If the application is denied, the Clerk shall notify the applicant by registered mail, at the address given in the application, stating the reasons therefore. The applicant may appeal the denial, pursuant to the authority set forth herein, to the Town Council.

§ 111.39 CONTENTS OF PERMITS.

Permits issued under this subchapter shall bear the name and address of the person to whom the permit is issued, the number of the permit, the date issued, the dates within which the permit holder may solicit, and a statement that the permit does not constitute an endorsement by the town, or by any of its officers or employees, of the purpose or of the person conducting the solicitation. All permits must be signed by the Town Clerk.



Penalty, see § 10.99

§ 111.40 TERM.

The Town Clerk may, by permit issued pursuant to this subchapter, grant the right to solicit on one or more single, nonconnective days in any calendar year, and may grant the right to solicit for any number of consecutive days not to exceed one year from the date of the permit. Upon the expiration of any permit of the kind last mentioned, and if requested in writing so to do, the Town Clerk may renew the permit, if he or she is satisfied that the requirements of this subchapter are still being met and that no violation of this subchapter has been committed. He or she may in his or her discretion require a new application, and his or her action on the new application shall be governed by the same standards as to granting or withholding the permit as in the case of an original application. No new permit, or renewal of an original permit, shall be issued for more than one year.

Penalty, see § 10.99

§ 111.41 TRANSFERABILITY.

Any permit issued under this subchapter shall be nontransferable.

§ 111.42 SUSPENSION AND REVOCATION; RIGHT OF APPEAL.

(A) Whenever it shall be shown or whenever the Town Clerk has reason to believe that any person to whom a permit has been issued under this division has violated any of the provisions of this subchapter, or that any promoter, agent, or solicitor of a permit holder has misrepresented the purpose of the solicitation, the Clerk shall immediately suspend the permit and give the permit holder written notice in person or by registered, special delivery mail of the suspension and of a hearing to be held within two days of the suspension to determine whether or not the permit should be revoked. This notice must contain a statement of the facts on which the Clerk has acted in suspending the permit.

(1) At the hearing, the permit holder, and any other interested person, shall have the right to present evidence as to the facts on which the Clerk based the suspension of the permit, and any other facts which may aid the Clerk in determining whether this subchapter has been violated and whether the purpose of the solicitation has been misrepresented.

(2) If, after the hearing, the Clerk finds that the subchapter has been violated, or the purpose of the solicitation has been misrepresented, he or she shall, within two days after the hearing file in his or her office for public inspection and send to the permit holder by registered mail, or serve on him or her in any manner provided by general law for the service of notices, a written statement of the facts on which he or she bases his or her findings and shall immediately revoke the permit.

(3) If, after the hearing, the Clerk finds that this subchapter has not been violated and the purpose of the solicitation has not been misrepresented, he or she shall, within two days after the hearing, give to the permit holder a written statement canceling the suspension of the permit and stating that no violation or misrepresentation was found to have been committed.

(B) The Sheriff shall be notified forthwith by the Town Clerk of the suspension or revocation of any permit issued under this division.

Penalty, see § 10.99

CERTIFICATE FOR RELIGIOUS SOLICITATIONS

§ 111.60 REQUIRED; EXCEPTIONS.

(A) No person shall solicit contributions for any religious purpose within the town without a certificate from the Town Clerk authorizing the solicitation. The provisions of this section shall not apply to any established organization organized and operated exclusively for religious purposes and not operated for the pecuniary benefit of any person if the solicitations by the established organization are conducted only among the members thereof by other members or officers thereof, voluntarily and without remuneration for making solicitations, or the solicitations are in the form of collections or contributions at the regular assemblies or services of the established organization.

(B) When a certificate has been issued to other than an individual, the individual agents and solicitors for the certificate holder shall not be required to obtain individual certificates.

Penalty, see § 10.99

§ 111.61 APPLICATION.

(A) Application for a certificate required by this subchapter shall be made to the Town Clerk on forms prescribed by him or her. The application shall be sworn to or affirmed, and shall contain the following information, or in lieu thereof, a statement satisfactory to the Clerk of the reason or reasons why the information or any item thereof is not furnished:

(1) A financial statement for the last preceding fiscal year of any funds collected for religious purposes by the applicant, giving the amount of money raised, together with the cost of raising it, and final distribution thereof;

(2) A full statement of the general character and extent of the religious work being done or to be done by the applicant, and also the character and extent of the work being done or to be done within the town;

(3) A statement to the effect that, if a certificate is granted, it will not be used or represented in any way as an endorsement by the town or by any employee or officer thereof;

(4) A statement to the effect that, if a certificate is granted, no person under the age of 16 will be permitted to solicit money; and

(5) Other information as may be submitted to the Town Clerk in order for him or her to determine the kind and character of the proposed solicitation.

(B) If, while any application is pending, or during the term of any certificate granted thereon, there is any change in fact, policy, or method that would alter the information given in the application, the applicant shall notify the Town Clerk in writing thereof within 24 hours after the change.

Penalty, see § 10.99

§ 111.62 ISSUANCE; CONTENTS OF CERTIFICATE.

Upon receipt of an application for a certificate under this subchapter, the Town Clerk shall forthwith issue to the applicant a certificate of registration. The certificate of registration shall bear the name and address of the person by whom the solicitation is to be made, the number of the certificate, the date issued, and a statement that the certificate does not constitute an endorsement by the town, or by any of its employees or officers, of the purpose of the solicitation or of the person conducting the solicitation.

§ 111.63 TERM; RENEWAL.

A certificate issued under this subchapter shall remain in force and effect for a period of one year after the issuance thereof, and shall be renewed on the expiration of the period on the filing of a request in writing, but the Town Clerk may require a new application.

## TITLE XIII: GENERAL OFFENSES

### Chapter

#### 130. GENERAL OFFENSES

### CHAPTER 130: GENERAL OFFENSES

#### Section

#### General Provisions

130.01 Noise generally

130.02 Particular noise

130.03 Discharge of firearms

130.04 Abandoned refrigerators and similar containers

130.05 Abandoned wells

130.06 Drainage ditches

130.07 Interference with pipes, drains, wiring and the like

130.08 Playing in public places

#### GENERAL PROVISIONS

##### § 130.01 NOISE GENERALLY.

No person may authorize or cause the emission from any property or source under his or her control any noise that is both:

(A) Sufficiently loud to frighten or pose a danger to the health of or seriously disturb any person who:

(1) If the noise emanates from a source located on private property, is located on other property; or

(2) If the noise emanates from a street or other public property, is located on private property or the street or other public property.

(B) Louder, or of greater duration, or otherwise more disturbing than is reasonably necessary for the performance of some lawful public or private function, enterprise, operation, or activity.

(Prior Code, § 5-1) Penalty, see § 10.99

##### § 130.02 PARTICULAR NOISE.

The following are declared to be illustrious of noises prohibited under the foregoing section, and are hereby declared to be unlawful, but this list shall not be exhaustive:

(A) The blowing of a horn or any motor vehicle except when the horn is used as a warning device;

(B) The operation of any motor vehicle without a muffler or with a muffler that is so defective or so designed that the vehicle emits an unusually loud noise;

(C) The operation of a motor vehicle so as to create unnecessary and unusual noise through the screeching of tires or racing of engines;

(D) The playing of any radio, television, tape recorder, phonograph or similar electronic device or any musical instrument so as to disturb the comfort, quiet or repose of persons in any place or residence; and/or

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

(Prior Code, § 5-2) Penalty, see § 10.99

#### § 130.03 DISCHARGE OF FIREARMS.

(A) Subject to division (B) below, no person may discharge any firearm within the town.

(B) Division (A) above shall not apply to private citizens acting in justifiable defense of self or property or pursuant to the lawful directions of a law enforcement officer nor to law enforcement officers acting in the lawful performance of their duties.

(Prior Code, § 5-3) Penalty, see § 10.99

(C) Pneumatic devices are not considered firearms.

#### § 130.04 ABANDONED REFRIGERATORS AND SIMILAR CONTAINERS.

(A) No person may leave outside of any building in any place accessible to children any unattended, abandoned or discarded icebox, refrigerator, or any other container of any kind which has a substantially air-tight door and which, when closed, may not be opened from the inside.

(B) No person may knowingly permit any device described in division (A) above to remain on the premises under his or her control.

(Prior Code, § 5-4) Penalty, see § 10.99

#### § 130.05 ABANDONED WELLS.

No person may knowingly permit any unused or abandoned cistern or well to remain on property under his or her control without adequately securing the top of the cistern or well so as to prevent any person from using or falling into the cistern or well.

(Prior Code, § 5-5) Penalty, see § 10.99

#### § 130.06 DRAINAGE DITCHES.

- a) It shall be the duty of any person owning or having charge of a lot or tract of land within the town, across, over or upon which there is a ditch or other natural or artificial channel, to keep the ditch or channel cleaned out so as to permit the free flow of water that collects therein. The lot owner is not expected to provide a level of “maintenance” above the normal homeowner’s normal tasks of mowing, raking, and removal of fallen limbs. Owners should inform the Town if serious work is thought appropriate such as altering the width or depth of a drainage way, the removal of live or dead trees/roots or other tasks that require extensive time, materials, or equipment.
- b) The Town, having a legal right-of-way to the drainage easement that moves water in the town’s drainage system, will inspect the ditch periodically. If work is required to establish/re-establish flow, the Town will undertake the necessary work after conferring with the lot owner.
- c) If the ditch is still not moving water appropriately, the Town will assume the responsibility to maintain the ditch. The Town staff or a contracted service company will be assigned to do the work. The Town will make every attempt to contact owners at least 48 hours in advance of the work start date.

Penalty, see § 10.99

Adopted 3/6/2017 by Town Board

§ 130.07 INTERFERENCE WITH PIPES, DRAINS, WIRING AND THE LIKE.

It shall be unlawful for any person to interfere in any way with any pipe line or drain, or any ditch connected with any pipe line or drain, or with any electric light pole or wiring, or any work being done by the town employees or by contract for the town.

Penalty, see § 10.99

§ 130.08 PLAYING IN PUBLIC PLACES.

(A) No person shall play at any game upon any street or use any street for the purpose of recreation, except upon a play street designated by authority of the Board of Commissioners.

(B) No person shall engage in any game or recreational activity upon any sidewalk or public place in the town in any manner so as to:

- (1) Impede pedestrian traffic;
- (2) Endanger property;
- (3) Endanger the life, limb or health of any person;
- (4) Prevent the full and complete use of a sidewalk or public place by other persons for the intended purposes thereof;
- (5) Constitute a breach of the peace; or
- (6) Constitute unreasonable annoyance to persons of ordinary

susceptibilities.

Statutory reference:

Authority of town to prohibit, abate or suppress all things detrimental to health, morals, comfort, safety and welfare of the people and to abate nuisances and the cause thereof, see G.S. § 160A-174

TITLE XV: LAND USAGE

Chapter

150. BUILDING CODE

151. ZONING

CHAPTER 150: BUILDING CODE

Section

Abandoned Structures

150.01 Finding; intent

150.02 Duties of the Building Inspector

150.03 Powers of the Building Inspector

150.04 Standards for enforcement

150.05 Procedure for enforcement

150.06 Methods of service of complaints and orders

150.07 In rem action by Inspector; placarding

150.08 Costs a lien on premises

150.09 Alternative remedies

150.99 Penalty

## ABANDONED STRUCTURES

### § 150.01 FINDING; INTENT.

It is hereby found that there exists within the town abandoned structures which the Town Board 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 subchapter to provide for the repair, closing or demolition of the 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.

(Prior Code, § 13-1)

### § 150.02 DUTIES OF THE BUILDING INSPECTOR.

- (A) To locate abandoned structures within the town and determine which structures are in violation of this subchapter;
- (B) To take the action pursuant to this subchapter as may be necessary to provide for the repair, closing or demolition of the structures;
- (C) To keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this subchapter; and
- (D) To perform the other duties as may be prescribed herein or assigned to him or her by the Town Board.

(Prior Code, § 13-2)

### § 150.03 POWERS OF THE BUILDING INSPECTOR.

The Building Inspector is authorized to exercise the powers as may be necessary to carry out the intent and the provisions of this subchapter, including the following powers in addition to others herein granted:

- (A) To investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this subchapter;
- (B) To enter upon premises for the purpose of making inspection;
- (C) To administer oaths and affirmations, examine witnesses, and receive evidence; and
- (D) To designate the other officers, agents and employees of the town as he or she deems necessary to carry out the provisions of this subchapter.

(Prior Code, § 13-3)

### § 150.04 STANDARDS FOR ENFORCEMENT.

(A) Every abandoned structure within the town shall be deemed in violation of this subchapter whenever the 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; or
- (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 subchapter, the Building Inspector 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 and insects, or become breeding places for rodents and insects;
- (3) Violations of the State Building Code, the State Electrical Code, the Fire Prevention Code, which constitute a fire hazard in the structure;
- (4) The collection of garbage, rubbish or combustible material which constitutes a fire hazard in the structure;
- (5) The use of the 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; and
- (7) Repeated use of the structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.

(Prior Code, § 13-4) Penalty, see § 150.99

#### § 150.05 PROCEDURE FOR ENFORCEMENT.

(A) Preliminary investigation; notice; hearing.

(1) Whenever a petition is filed with the Inspector by at least five residents of the town charging that a structure exists in violation of this subchapter, or at the direction of the Town Board, or whenever it appears to the Inspector, upon inspection, that any structure exists in violation hereof, he or she shall, if his or her preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner of and parties in interest in the structure a complaint stating the charges and containing a notice that a hearing will be held before the Inspector in the place therein fixed, not less than ten nor more than 30 days after the serving of the complaint.

(2) 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 the hearing shall also be given to at least one of the persons signing a petition relating to the structure. Any person desiring to do so may attend the 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 Inspector.

(B) Procedure after hearing.

(1) Notice and hearing. After the notice and hearing, the Inspector shall state in writing his or her determination whether the structure violates this subchapter.

(2) Findings-order/60 days. If the Inspector determines that the dwelling is in violation, he or she shall state in writing his or her findings of fact to support the determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve the structure or else remove or demolish the same within a specified period of time not to exceed 60 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 Inspector within the time specified therein, the Inspector may submit to the Town Board in its next regular meeting a resolution directing the Town Attorney to petition the Superior Court for an order directing the owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

(2) In rem remedy. After failure of an owner of a structure to comply with an order of the Inspector within the time specified therein, if injunction relief has not been sought or has not been granted as provided in the preceding division (C)(1) above, the Inspector shall submit to the Town Board an ordinance ordering the Inspector to cause the structure to be removed or demolished, as provided in the original order of the Inspector, and pending the removal or demolition, to placard the dwelling as provided by G.S. § 160A-443.

(D) Petition to superior court by owner. Any person aggrieved by an order issued by the Inspector shall have the right, within 30 days after issuance of the order to petition the Superior Court for temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. § 160A-446(f).

(Prior Code, § 13-5)

#### § 150.06 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of the persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of the complaint or order upon the 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.

(Prior Code, § 13-6)

#### § 150.07 IN REM ACTION BY INSPECTOR; PLACARDING.

(A) After failure of an owner of a structure to comply with an order of the Inspector issued pursuant to the provisions of this subchapter, and upon adoption of the Town Board of an ordinance authorizing and directing him or her to do so, as provided by G.S. § 160A-443(5) and § 150.05(C) of this subchapter, the Inspector shall proceed to cause the structure to be removed or demolished, as directed by the ordinance of the Town Board and shall cause to be posted on the main entrance of the 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 ordinance shall be recorded in the office of the Register of Deeds of Beaufort County, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).

(Prior Code, § 13-7)

#### § 150.08 COSTS A LIEN ON PREMISES.

As provided by G.S. § 160A-443(6), the amount of the cost of any removal or demolition caused to be made or done by the Inspector pursuant to this subchapter shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be enforced and the cost collected as provided by G.S. Ch. 160A, Art. 10.



(Prior Code, § 13-8)

§ 150.09 ALTERNATIVE REMEDIES.

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

(Prior Code, § 13-9)

§ 150.99 PENALTY.

The violation of any provision of §§ 150.01 et seq. shall subject the offender to a civil penalty, in an amount as established by § 10.99, a day to be assessed after the passage of the 60-day period of time allowed by the Building Inspector for the repair/removal of the structure. The violator shall be issued a written citation which must be paid within 72 hours.

(Prior Code, § 13-10)

CHAPTER 151: ZONING

Section

151.01 Zoning ordinance

§ 151.01 ZONING ORDINANCE.

The Zoning Ordinance of the Town of Washington Park is adopted and published separately from this code and is referenced here only for informational purposes.

(Prior Code, § 14-1)

TABLE OF SPECIAL ORDINANCES

[Reserved]

PARALLEL REFERENCES

References to North Carolina General Statutes

References to Prior Code

References to Ordinances

REFERENCES TO NORTH CAROLINA GENERAL STATUTES

G.S. Cite	Code Section
1-593	10.05
14-4	91.99; 93.999
14-4(a)	10.99
14-286	91.01
14-399	93.022
20-141(B)(1)	71.01
20-146(d)	72.01
20-150(e)	72.02
20-162	73.02
44A	93.068
58-79-20	91.03
58-82-1	91.01
105-319	30.22
105-320	30.22
105-349(a)	30.22

105-349(c)	30.22
105-373	30.22
130A-290 et seq.	Ch. 51
143-318.9 et seq.	31.28
159	31.27
159, Art. 3	30.21
160A	94.09
160A, Art. 10	150.08
160A-70	31.67
160A-174	130.08
160A-175	10.99
160A-183	51.31
160A-185	51.31
160A-303.1	51.16
160A-311 et seq.	Ch. 51
160A-441	150.01
160A-443	150.05
160A-443(5)	150.07
160A-443(6)	150.08
160A-446(f)	150.05
160A-446(g)	150.05
163	Charter
164-7	10.14
166A	32.24

**REFERENCES TO PRIOR CODE**

Prior Code	2007 Code
2-1	31.65
2-2	31.66
2-3	31.67
2-6	31.20
2-7	31.21
2-8	31.22
2-9	31.23
2-10	31.24
2-11	31.25
2-12	31.26
2-13	31.27
2-14	31.28
2-15	31.29
2-16	31.30
2-21	31.45
2-22	31.46
2-23	31.47
2-24	31.48
2-25	31.49
2-26	31.50

2-27	31.51
2-31	31.01
2-33	31.02
3-1	30.01
3-2	30.02
3-3	30.03
3-4	30.20
3-5	30.21
3-6	30.22
3-10	30.40
3-11	30.41
3-15	30.55
5-1	130.01
5-2	130.02
5-3	130.03
5-4	130.04
5-5	130.05
6-1	70.01
6-5	72.01
6-6	72.02
6-11	71.01
6-15	73.02
6-18	70.02
7-1	92.020
7-2	92.021
7-3	92.022
7-4	92.023
7-11	92.040
7-12	92.041
7-13	92.042
7-16	92.060
7-17	92.061
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7-31	92.001
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9-3	32.22

9-4	32.23
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9-6	32.25
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11-7	93.025
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11-9	93.027
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11-28	93.067
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11-31	93.070
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11-40	93.004
11-41	93.005
12-1	91.01
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12-4	91.04
12-5	91.99
13-1	150.01
13-2	150.02
13-3	150.03
13-4	150.04
13-5	150.05
13-6	150.06
13-7	150.07
13-8	150.08
13-9	150.09
13-10	150.99
14-1	151.01

REFERENCES TO ORDINANCES

Ord. No.	Date Passed	Code Section
–	9-5-1969	92.085–92.087
–	10-11-1971	73.01
–	9-4-1980	94.01–94.09