

**TOWN OF AUTRYVILLE,
NORTH CAROLINA**

CODE OF ORDINANCES

2021 S-1 Supplement contains:
Local legislation current through Ordinance passed 6-16-2021; and
State legislation through 2021 Regular Session #1

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TOWN CHARTER

TOWN CHARTER

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION
RATIFIED BILL

CHAPTER 384
HOUSE BILL 797

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE
TOWN OF AUTRYVILLE

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Autryville is revised and consolidated to read:

“THE CHARTER OF THE TOWN OF AUTRYVILLE.

“ARTICLE I. INCORPORATION, CORPORATE POWERS. AND BOUNDARIES.

“**Section 1.1. Incorporation.** The Town of Autryville, North Carolina, in Sampson County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the ‘Town of Autryville,’ also referred to as the ‘Town.’

“**Sec. 1.2. Powers.** The Town has and may exercise all of the powers, duties, rights, privileges and immunities conferred upon the Town of Autryville specifically by this Charter or upon municipal corporations by general law. The term ‘general law’ is employed herein as defined in G.S. 160A-1.

“**Sec. 1.3. Corporate Limits.** The corporate limits are those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current boundaries, is maintained permanently in the office of the Town Clerk and is available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Sampson County Register of Deeds and the appropriate board of elections.

“ARTICLE II. GOVERNING BODY.

“**Sec. 2.1. Mayor and Board of Commissioners.** The Mayor and the Board of Commissioners, hereinafter referred to as the ‘Board,’ comprise the governing body of the Town.

“Sec. 2.2. Board of Commissioners; Composition; Terms of Office. The Board is composed of five Commissioners elected by all the qualified voters of the Town for staggered terms of four years or until their successors are elected and qualified.

“Sec. 2.3. Mayor; Term of Office; Duties. The Mayor is elected by all the qualified voters of the Town for a term of two years or until a successor is elected and qualified. The Mayor is the official head of the Town government and presides at meetings of the Board; has the right to vote only when there is an equal division on any question or matter before the Board; and exercises the powers and duties conferred by law or as directed by the Board.

“Sec. 2.4. Mayor Pro Tempore. At the organizational meeting following each regular municipal election, the Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor’s absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in that capacity until the organizational meeting following the next regular municipal election, despite the contrary provisions of G.S. 160A-70.

“Sec. 2.5. Meetings. In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

“Sec. 2.6. Voting Requirements; Quorum. Official actions of the Board and all votes are taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

“Sec. 2.7. Compensation; Qualifications for Office; Vacancies. The compensation and qualifications of the Mayor and Commissioners are as provided by general law. Vacancies that occur in any elective office of the Town shall be filled for the remainder of the unexpired term.

“ARTICLE III. ELECTIONS.

“Sec. 3.1. Regular Municipal Elections. Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of the State. Elections are conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

“Sec. 3.2. Election of Board of Commissioners. The Commissioners serving on the date of ratification of this Charter shall serve until the expiration of their terms or until their successors are elected and qualified. Three Commissioners shall be elected at the regular municipal election in 1991 and every four years thereafter. Two Commissioners shall be elected at the regular municipal election in 1993 and every four years thereafter.

“Sec. 3.3. Election of Mayor. A Mayor shall be elected in each regular municipal election.

“Sec. 3.4. Special Elections and Referendums. Special elections and referendums may be held only as provided by law.

“ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

“Sec. 4.1. Form of Government. The Town shall operate under the mayor-council form of government, in accordance with Part 3 of Article 7 of Chapter 160A of the General Statutes.

“Sec. 4.2. Town Clerk. The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board; to maintain official records and documents; to give notice of meetings; and to perform such other duties required by law or as the Board may direct.

“**Sec. 4.3. Tax Collector.** The Board shall appoint a Tax Collector pursuant to G.S. 105-349 to collect all taxes owed to the Town, subject to general law, this Charter and Town ordinances.

“**Sec. 4.4. Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials and perform other duties required by law or as the Board may direct.

“**Sec. 4.5. Other Administrative Officers and Employees.** The Board may authorize other positions and may organize the Town government as deemed appropriate, subject to the requirements of general law.

“ARTICLE V. ALCOHOLIC BEVERAGES.

“**Sec. 5.1. Sale of Alcoholic Beverages Prohibited.** It shall be a misdemeanor for any person to sell spirituous or fermented liquors within one mile of the corporate limits of the Town, as provided in Section 18 of Chapter 191, Private Laws of 1891.”

Sec. 2. The purpose of this act is to revise the Charter of the Town of Autryville and to consolidate certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts which are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Sec. 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools, or acts validating official actions, proceedings, contracts, or obligations of any kind.

Sec. 4. All acts in conflict with this act are repealed. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 191, Private Laws of 1891, except for Section 18

Chapter 540, Public-Local Laws of 1937

Chapter 70, Session Laws of 1975.

Sec. 5. This act does not affect any rights or interests which arose under any provisions repealed by this act.

Sec. 6. All existing ordinances, resolutions, and other provisions of the Town of Autryville not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Sec. 7. No action or proceeding pending on the effective date of this act by or against the Town or any of its departments or agencies shall be abated or otherwise affected by this act.

Sec. 8. If any provision or application of this act is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 9. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded, or recodified, the reference shall be deemed amended

to refer to the amended General Statute, or to the General Statute which most clearly corresponds to the statutory provision which is superseded or recodified.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of June, 1991.

JAMES C. GARDNER

James C. Gardner
President of the Senate

DANIEL BLUE, JR.

Daniel Blue, Jr.
Speaker of the House of Representatives

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§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the Town of Autryville shall be designated as the *Code of Autryville, 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, 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 governing body of the Town of Autryville, North Carolina.

CHARTER. The Charter of the Town of Autryville, 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 Sampson in the State of North Carolina.

DELEGATION OF AUTHORITY. Whenever a provision of this code requires or authorizes an officer or employee of the town to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate and authorize subordinates to perform the act or duty unless the terms of the provision shall specifically designate or provide otherwise.

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.

GOVERNING BODY. The words **TOWN BOARD OF COMMISSIONERS, COMMISSIONERS, BOARD** or **GOVERNING BODY** shall refer to the duly constituted governing body of the Town of Autryville, North Carolina.

GOVERNOR. The Governor of North Carolina.

HEALTH OFFICER. The Health Officer of the respective counties in which the affected county is located.

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, COMMISSION or **DEPARTMENT.** An officer, office, employee, commission or department of the 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 curblineline 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) 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.

(b) 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 Autryville, North Carolina.

TOWN LIMITS. The legal boundary of the Town of Autryville, North Carolina.

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

YEAR. A calendar year, unless otherwise expressed.

Statutory reference:

Computation of time, see G.S. § 1-593

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of the 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; LIABILITY.

(A) Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the 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.

(B) In the event of a violation of any provision of this code or other ordinance of the town by a corporation, in addition to the corporation being subject to punishment, the officer, agent or employee thereof who performs the act constituting the violation, or who controls, directs or supervises, any officer, agent or employee who performs the act, or who procures, aids or abets the performance of the act shall be subject to the same penalties as if the officer, agent or employee had personally committed the violation.

§ 10.10 ERRORS AND OMISSIONS; ALTERATIONS.

(A) (1) 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.

(2) No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

(B) It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of this code or to insert or delete pages, or any portions thereof, or to alter or tamper with the code in any manner whatsoever, except pursuant to ordinance or resolution or other official act of the governing body which will cause the law of the town to be misrepresented thereby.

Penalty, see § 10.99

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state and federal laws, shall be the official time within the 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.

(A) 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.

(B) 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 division, 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 readopted 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 Autryville, 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 Autryville, 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; 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; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; 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; 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.

§ 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 in an amount as set out in the fee schedule on file in the Town Clerk’s office, 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. GENERAL PROVISIONS**
- 31. POLICE DEPARTMENT**
- 32. FINANCE AND REVENUE**
- 33. PERSONNEL**

CHAPTER 30: GENERAL PROVISIONS

Section

- 30.01 Mayor
- 30.02 Code of Ethics
- 30.03 Petitions for annexation

§ 30.01 MAYOR.

The Town Board shall be responsible for retaining a qualified professional mayor.
(Ord. passed - -)

§ 30.02 CODE OF ETHICS.

(A) *General provisions.*

(1) The purpose of this Code of Ethics is to establish guidelines for an ethical standard of conduct for the board members and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a board member's best judgment.

(2) G.S. § 160A-84 requires all members of the governing board to receive a minimum of two clock hours of ethics education within 12 months after their initial election or appointment, and again within 12 months after each time they are subsequently elected or appointed to the governing body. The Clerk is to maintain a record of each member's completion of the ethics education requirement.

(B) (1) Board members should obey all laws applicable to their official actions as members of the board. The spirit as well as the letter of the law in whatever they do should guide board members.

(2) At the same time, board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To declare that a board member is behaving unethically because of disagreeing with that board member on a question of policy (and not because of the board member's behavior) is unfair, irresponsible, and unethical.

(3) Board members should endeavor to keep up to date, through the board's attorney and other sources, about new or ongoing legal or ethical issues they may face in their official positions. This educational function is in addition to the day-to-day legal advice the board may receive concerning specific situations that arise.

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(C) Board members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- (1) Adhering firmly to a code of sound values;
- (2) Behaving consistently and with respect toward everyone with whom they interact;
- (3) Exhibiting trustworthiness;
- (4) Living as if they are on duty as elected officials regardless of where they are or what they are doing;
- (5) Using their best independent judgment to pursue the common good as they see it, presenting their opinion to all in a reasonable, forthright, consistent manner;
- (6) Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others;
- (7) Disclosing contracts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves;
- (8) Treating other board members and the public with respect and honoring the opinions of others even while the board members disagree with those opinions;
- (9) Not reaching conclusions on issues until all sides have been heard;
- (10) Showing respect for their offices and not behaving in ways that reflect on those offices;
- (11) Recognizing that they are a part of a larger group and acting accordingly;
- (12) Recognizing that individual board members are not generally allowed to act on behalf of the board but may only do so if the board specifically authorizes it, and that the board must take official action as a body;
- (13) Avoiding conflicts of interest.

(D) (1) Board members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this board will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the board member's action would conclude that the action was inappropriate.

(2) If a board member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the board's attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it.

(E) (1) Board members should faithfully perform the duties of their offices. They should act as especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

(2) Board members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, mindful of the need not to engage in communications outside the meeting in quasi-judicial matters. They should demand full accountability from those over whom the board has authority.

(3) Board members should be willing to bear their fair share of the board's workload. To the extent appropriate, they should be willing to put the board's interests ahead of their own.

(F) (1) Board members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should also remember that local government records belong to the public and not to board members or their employees.

(2) In order to ensure strict compliance with the laws concerning openness, board members should make clear that an environment of transparency and candor be maintained at all times in the government unit. They should prohibit unjustified delay in fulfilling public record requests. They should take deliberate steps to make certain that any closed sessions held by the council are lawfully conducted and that such sessions do not stray from the purpose for which they are called.

(Ord. passed 11-20-2012)

§ 30.03 PETITIONS FOR ANNEXATION.

The petitioner for annexation may appear before the Board of Commissioners at a regularly scheduled meeting of the Board of Commissioners to request exemptions or modifications to the Code of Ordinances as they may apply to the petition for annexation. These exemptions or modifications shall apply solely to the property being considered for annexation. The Board of Commissioners shall hereby be given full discretion in deciding these exemptions or modifications.

(Res. passed 2-16-2021)

CHAPTER 31: POLICE DEPARTMENT

Section

General Provisions

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GENERAL PROVISIONS

§ 31.01 DEPARTMENT TO ACT AS AGENT FOR PRIVATE PROPERTY OWNERS AND TENANTS.

(A) The Police Department, including the Chief presently in office, all officers presently employed and auxiliary forces acting under the lawful authority of the Police Department and any future Chief or officers be and are hereafter authorized to act as agents for private property owners and tenants to regulate the stopping, standing or parking of vehicles in specified areas in any parking area or driveway of a hospital, shopping center, apartment house, condominium complex or commercial office complex or any other privately owned public vehicular area and to prevent the trespass by any individual on the areas at the request of the property owners or tenants.

(B) The owners, tenants or those in charge of private property desiring the Police Department to act as their agent to enforce the regulation of those activities specified in division (A) above shall request the assistance in writing to the Police Department and shall provide the Police Department with a written instrument designating the terms and conditions of the agency for those purposes specified in division (A) above.

(C) The written request for the agency relationship and the written instrument specifying the terms and conditions of the relationship referred to in division (B) above shall be maintained in the Police Department as a matter of public record, and a copy of each shall be maintained by the owner, tenant or person in charge on the premises.

(D) A withdrawal of any designation of agency as authorized herein by a property owner, tenant or person in charge shall be made in writing to the Police Department, and notice of the withdrawal shall be given at least 72 hours prior to the effective date of the withdrawal.

(Ord. passed 4-8-1980)

§ 31.02 AUXILIARY POLICE DIVISION.

(A) *Auxiliary Police Division established.* There is hereby established within the Town Police Department, as a division thereof, an Auxiliary Police Division. The Auxiliary Police Division shall be a volunteer organization, composed of as many members as may, from time to time, be determined by the governing body.

(B) *Chief of Police to control; appointments and removals.*

(1) The Auxiliary Police Division shall be under the direct control of the Chief of Police, acting under the general supervision of the governing body. All appointments and removals of members of the Auxiliary Police shall be made in the same manner and under the same policies and procedures as may, from time to time, be established for appointment and removal of regular police officers.

(2) The Auxiliary Police Division shall have no commanding officer, nor any officers, and all members shall bear the rank of patroler. Each member of the Auxiliary Police Division shall take the oath of office of a regular police officer. The Chief of Police shall provide for adequate training of members of the Auxiliary Police Division and of candidates for membership.

(C) *Duties.*

(1) The duties of the Auxiliary Police Division, subject, at all times, to the direction, supervision and control of the Chief of Police, shall be to assist the regular members of the Police Department in the enforcement of law and the maintenance of peace and order when called in active duty by the Chief of Police. The Chief shall, by order, establish rules and regulations to govern the Auxiliary Police Division, to fix the specific duties of its members and to provide for the maintenance of discipline.

Members of the Auxiliary Police Division shall obey the instructions of regular police officers in carrying out their duties.

(2) The Chief may prescribe other duties than those mentioned herein to be performed by the Auxiliary Police Division, with the approval of the governing body.

(D) *Identification.* An identification card and other insignia or evidence of identity, as the Chief may prescribe, shall be issued to each member of the Auxiliary Police Division, who must carry the card and other identification at all times while on duty and who must surrender them upon the termination of his or her membership.

(E) *Carrying and custody of firearms.* No member of the Auxiliary Police Division shall, while on duty, carry or use any firearms, except upon the express order of the Chief of Police, and all official firearms shall be kept in custody of the Police Department, except when issued to a member of the Auxiliary Police Division for use on active duty.

(F) *Law enforcement powers.* No member or members of the Auxiliary Police Division shall enforce, nor attempt to enforce, any law, except when called to active duty.

(G) *Power of arrest.* Members of the Auxiliary Police Division shall, while undergoing official training and while performing duties on behalf of the town, pursuant to orders or instructions of the Chief of Police of the town, be entitled to all powers of arrest, privileges and immunities afforded by law to regularly employed police officers.

(H) *Benefits.* Members of the Auxiliary Police shall, while undergoing training and while performing duties on behalf of the town, pursuant to orders or instructions of the Chief of Police of the town, shall be entitled to worker's compensation insurance benefits; Law Enforcement Officers: Benefit and Retirement Fund; Law Enforcement Officers, Firemen's and Rescue Squad Workers Death Benefit Act, being G.S. §§ 143-166.1 *et seq.*; and any other fringe benefits provided members of the Police Department. The members of the Auxiliary Police shall be entitled to the same benefits afforded regular members of the Police Department by professional liability insurance.

(Ord. passed - -)

DEPARTMENT PROCEDURES

§ 31.15 LAW ENFORCEMENT CODE OF ETHICS.

As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the

peaceful against violence or disorder; and to respect the constitutional rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confident nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill-will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideas. Dedicating myself before God to my chosen profession, law enforcement.
(Ord. passed - -)

§ 31.16 DEFINITIONS.

(A) All members shall be governed by the following definitions of terms employed in the policies and procedures manual.

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

ABSENTEEISM (AWOL). Failure to report for duty without proper and sufficient reason and without securing proper approval in advance.

ACTING. Serving temporarily in a position to which the member is not ordinarily assigned, usually in a position of higher rank.

ADMINISTRATIVE NOTICE. Written order issued by the Police Chief bearing upon some specific circumstance or situation, usually of a temporary nature, but not related to police policies.

CHAIN OF COMMAND. The unbroken line of authority extending from the Police Chief down through a single subordinate at each level of command down to the level of execution.

COMMANDING OFFICER. A commissioned officer in charge of a division unit or other organic unit of the police.

DEPARTMENT. The Department of Police.

DEPARTMENT AND POLICE. Where the word **DEPARTMENT** is used and **POLICE** is intended, or vice versa, the construction of the title used shall apply for all purposes as if both titles were synonymous.

DESK OFFICER. A superior officer assigned to duty at the receiving desk.

DETAIL. Members of the police grouped together for the accomplishment of a specific mission.

DISMISSAL. The act terminating the service of a member without his or her consent.

DISTRICT. The geographical areas and boundaries into which the jurisdiction areas have been divided for the purpose of patrol administration.

DIVISION. The functional unit of the police whose commanding officer reports directly to the Police Commander.

EMPLOYEE. When used alone, shall mean any officer, member or civilian employee of the police.

GENERAL ORDER. Permanent written order issued by the Police Chief prescribing police policies governing the external or internal affairs of the Police.

IMMEDIATELY. As soon as possible.

INSPECTION. The regular or periodic examination of personnel as to appearance, uniforms, equipment, duties and operations.

INSUBORDINATION. The willful disobedience of any order lawfully issued by a superior officer or any disrespectful, mutinous, insolvent or abusive language toward a superior officer.

LEAVE OF ABSENCE. An extended period during which a member is excused from active duty without pay for specific purposes.

LENGTH OF SERVICE. The length of time that a member has been engaged in the actual performance of police duty.

MAY. The act referred to is permissive.

MEMBER. Applies to all uniformed persons on the police payroll who are charged with enforcement duties, including patroler non-commissioned and commissioned officers.

MEMORANDUM. Written correspondence exchange internally within the Department.

OFF DUTY. The state of a member during his or her day off or on authorized leave when he or she is free of the responsibility of performing his or her usual routine duties. A police member is subject to call to duty at all times.

OFFICER. Any uniformed member, regardless of rank.

ON DUTY. A member is **ON DUTY** during the period when he or she is actively engaged in the performance of his or her police duties.

ORDER. An instruction or directive, either written or oral, issued by a superior officer to a subordinate or group of subordinates in the course of police duty.

PATROL CAR. A car used by a member in the performance of his or her police duties.

POLICE CHIEF. The chief executive of the Police Department answerable only to the Town Manager and the Mayor and Board of Commissioners.

POLICE HEADQUARTERS. The police building or office in the town in which the staff and administrative personnel of the police are located.

POLICE ORDER. An inclusive term used in reference to rules and regulations, general orders, administrative notices and manuals.

POLICIES AND PROCEDURES MANUAL. A written series of administrative instructions, operational procedures, rules and regulations, and policies which govern the operation of the police.

POST. A fixed point or location to which a member is assigned for duty.

PROCEDURE. The official method of dealing with any given situation.

RANKING OFFICER. The officer having the highest rank in a grade based on the date of appointment to that grade, unless otherwise designated by proper authority.

REPORT. A written communication, unless otherwise specified, relating to police matters.

RESIGNATION. The act taken by a member in voluntarily terminating his or her service with the Department.

SHALL and WILL. The action referred to is mandatory.

SHOULD. The act referred to is advisable.

SPECIAL DUTY. Police service, the nature of which requires that the member be excused from the performance of his or her regular duties.

SUPERIOR OFFICER. Any commissioned or non-commissioned officer having supervisory responsibilities, either temporarily or permanently, over members of lower rank.

SUSPENSION. Action taken in temporarily denying a member the privilege of performing his or her duties as a consequence of dereliction of duty, breach of discipline, misconduct or violation of regulations.

THROUGH OFFICIAL CHANNELS. Through the hands of the superior officers in the chain of command.

(Ord. passed - -)

§ 31.17 GENERAL ORDER; RULES OF CONDUCT.

(A) *Function.* Effective this date, members shall be governed by the following general rules of conduct. Violation by any member of the Department of any of these rules of conduct may be considered sufficient cause for dismissal, demotion, suspension or other administrative action deemed appropriate.

(B) *Duty to abide by laws, order and rules.* Members shall abide by the laws of the United States and the state, the ordinances of municipalities and the counties and all general orders and rules of conduct of the Department.

(C) *Obedience to orders.*

(1) *Orders of superior officers.* Members shall obey all lawful orders and directions given by superior officers and shall obey any instructions given by radio dispatchers and competent authority pertaining to all assignments or emergencies. The obedience shall be prompt and willing.

(2) *Insubordination.* The failure or deliberate refusal of any member to obey any lawful order given by any superior officer shall be deemed insubordination. Failure to recognize the authority of any uniformed superior officer by manifest disrespect or by disputing his or her orders shall likewise be deemed insubordination.

(3) *Manner of issuing orders.* Orders from superior to subordinate shall be in clear understandable language and willfully issue any order which is in violation of any law or ordinance or and issue in pursuit of Departmental business.

(4) *Criticism of lawful orders.* Members shall not publicly criticize or comment derogatorily to anyone about instructions or orders they have received from a superior officer.

(5) *Conflict of orders.* Should any order conflict with any previous orders or instructions issued by another superior officer or with any general order, the member to whom the order is given shall

respectfully call attention to the conflict; and if the superior officer giving the second order does not change the same as to obviate the conflict, his or her orders shall stand and the responsibility shall be his or hers. If he or she so directs, the latter command will be obeyed first, orders will be countered or conflicting orders issued only when reasonably necessary for the good of the Department.

(6) *Obedience to unlawful orders.* No member is required to obey any order which is contrary to the laws of the United States, the state or the ordinances of the town or the county. The refusal to obey, however, is the member's responsibility and he or she shall be strictly required to justify his or her action.

(7) *Performance of duty.* Members shall perform all lawful duties as may be required of them by competent authority, regardless of whether the duties are specifically assigned to them in any rules or duty manuals.

(8) *Relationships; conduct and behavior.* Members whether on or off duty shall be governed by the ordinary and reasonable rules of good conduct and behavior and shall not commit any act tending to bring discredit upon themselves and the Department.

(9) *Impartial attitude.* Members, while being vigorous and unrelenting in the enforcement of the law, must maintain a strictly impartial attitude toward complainants and violators. Members shall, at all times, consider it their duty to be of service to anyone who may be in danger or distress in the town.

(10) *Duty to be courteous and patient.* Members shall, at all times, be courteous, patient and respectful in dealing with the public. All business conversations shall be conducted in a courteous and even tempered manner, using proper English grammar.

(11) *Giving name.* Members shall politely give their names and other pertinent identification information to any violator or other person when requested to do so, unless the action is likely to jeopardize the successful completion of an assignment.

(12) *Supporting fellow officers.* Members shall cooperate, support and assist each other in all ethical endeavors in every opportunity and shall not publicly criticize the word or the manner of performance of duty of any other member.

(13) *Threatening or insulting language.* Members shall not use threatening or insulting language, nor behave in an insubordinate manner toward any superior officer or fellow member.

(14) *Circulating scandalous stories or criticism.* Members shall refrain from circulating scandalous stories about members or other governmental employees and shall refrain from circulating criticism of other governmental employees or agencies, members shall not publicly criticize the action of any judge or other officer of the court by word or deed.

(15) *Relations with press.*

(a) Members shall cooperate with representatives of the news media by giving them information of news value relating to cases and incidents, except:

1. When the release of information pertains to an arrested person;
2. When the incident is one of a personal nature; or
3. When the incident may tend to adversely affect any agency or employer of state government.

(b) The release of any statement to the news media concerning any of the above exceptions shall be made by the Chief of Police or his or her legal authority.

(Ord. passed - -)

§ 31.18 APPEARANCE.

(A) *Personal appearance.* Members shall be neat and clean in appearance when in public, whether in or out of uniform and whether on or off duty, members shall bathe regularly, shave at least once a day and shall keep their fingernails trimmed and clean. Sideburns shall not be lower than the center of the tagus portion of the ear.

(B) *Care of quarters.* Members shall maintain quarters, lockers and desk in a neat, clean and orderly condition.

(C) *Places to congregate.* Members in charge of the police installations or any part thereof shall prevent loafing by persons not on police business.

(D) *Horseplay.* Members shall not indulge in horseplay or loud and boisterous conversation in public view or hearing.

(E) *Reading newspaper on duty.* While on duty in the patrol car or when receiving the public in a police installation, members shall not read newspapers, periodicals or similar material, except in the line of duty.

(Ord. passed - -)

§ 31.19 ATTENTION TO DUTY.

(A) *Members always subject to duty.* Although certain hours are allotted for the performance of duty, members are subject to report to duty at any time. Members shall not act as law enforcement officers when not in uniform, except in cases of emergency or direct orders from the Chief of Police.

(B) *Reporting for duty.* Members, unless otherwise directed, shall report for duty or present themselves at the time specified. They shall be properly uniformed and equipped.

(C) *Prompt response to calls.* Members shall respond without delay to calls for police assistance consistent with police policy. Calls shall be answered consistent with normal safety precautions and vehicular driving laws.

(D) *Attendance in court.* Whenever any member is to appear in court on any matter in which his or her presence is required, he or she shall attend punctually.

(E) *Duty of members to keep informed.* Members are held responsible for thoroughly understanding the laws and ordinances they are charged with enforcing and all policies and procedures. This also applies to the ordinances of the municipalities.

(Ord. passed - -)

§ 31.20 RESTRICTION ON ACTIVITIES.

(A) *Seeking personal activities.* Members are forbidden to solicit petitions, influence or intervention of any person outside the Department for the purposes of personal referment, advantage, advancement, promotion or changes of duty for themselves or for any other member.

(B) *Accepting gifts from suspects, prisoners.* Members are strictly prohibited from soliciting or accepting any gifts, gratuity, loan fee or any other thing of value from any suspect, prisoner, defendant or other person involved in any case, or other persons of ill-repute, or professional bondsman, or other persons whose vocations may profit from information obtained from the police.

(C) *Gifts from subordinates.* A member shall not receive or accept any gift or gratuity from another member if there is any indication that preferential consideration is the purpose for the gift or gratuity.

(D) *Acting as bailor; accepting bail.*

(1) Members shall not act as bailors for any person in cases where the arrest was made by a member of the Department and in no case where any fee, gratuity or reward is solicited or accepted.

(2) Members shall not receive or accept money to be turned in as fine or bail for persons charged or cited for violations or convicted.

(E) *Recommending attorneys or bondsmen.* Members shall not suggest, recommend, advise or counsel the retention of any particular attorney or bondsman to any person directly interested in the disposition of any criminal or civil court matter.

(F) *Testifying for defendant.* Any member subpoenaed to testify for the defense in any trial or against the state or the Department in hearing or trial shall notify the police commander immediately.

(G) *Civil cases.* Members shall not serve in civil process, nor render assistance in civil cases, except as required by law. Members shall not volunteer to testify in civil actions nor shall they testify unless legally summoned.

(H) *Debts.* Members shall promptly pay all just debts and discharge all legal obligations and liabilities incurred by them. No member should become indebted to any member to an appreciable degree.

(I) *Public utterances.* Members shall not publicly express an opinion on racial, religious, political or other controversial subjects and shall refrain from the public discussion of the demerits of law, except if it is the expressed opinion of the Department.

(J) *Unauthorized disclosure of information.* Members shall not disclose any confidential police policies, plans or other information, except as authorized by the Chief of Police. This provision is not to be construed to prevent the release of information concerning law enforcement activities which is not confidential.

(Ord. passed - -)

§ 31.21 PERSONAL DISCLOSURE OF INFORMATION.

(A) *Conduct must be creditable.* Members shall so conduct their private and professional lives as to avoid bringing discredit upon the Department by scandal, spectacle or ridicule.

(B) *Oppressive conduct.* No member shall be guilty of oppression, favoritism or willful wrong or injustice.

(C) *Truthfulness.* Members are required to speak the truth at all times, whether under oath or not, in giving testimony or in connection with any legal official order received or in connection with official duties.

(D) *Alcoholic beverages.* Members shall not drink any alcoholic beverages or be intoxicated while in uniform or on duty.

(E) *Entering liquor stores.* No member in uniform or while acting in an official police capacity shall enter any liquor store for the purpose of purchasing intoxicating beverages.

(F) *Use of tobacco and chewing gum.*

(1) Members shall not smoke, chew tobacco or chew gum on duty while engaged in direct contact with or serving the public.

(2) Members are permitted to smoke while patrolling in automobiles, at which time it shall be as inconspicuous as possible.

(Ord. passed - -)

§ 31.22 ARREST AND PRISONERS.

(A) *Reduction of charges.* Members shall refrain from influencing the reduction of a charge or the disposition of a charge initiated by them or any other law enforcement official, either directly or indirectly, for ulterior motives.

(B) *Necessary force in making arrest.* Members, when making a lawful arrest, shall not use more force than necessary in making the arrest or in dealing with a prisoner and shall not subject the person to more restraint than is necessary for his or her arrest and detention and for the safety and protection of the arresting officer.

(C) *Treatment of suspects, prisoners.* Prisoners and suspects shall be treated in a fair and humane manner. Members shall not strike or use any other form of physical force on a prisoner, except when necessary to prevent escape or in self-defense or in the prevention of violence to another person.

(D) *Safeguarding prisoners; precautions.* Members shall be cautious in the arrest and detention of prisoners or suspects and shall take necessary steps and all necessary precautions for the safety and protection of the persons to prevent escape, or the carrying of weapons on the person after arrest, or injury to themselves or any other person, or damage to property.

(E) *Safeguarding property.* Members shall be responsible for taking reasonable steps in protecting personal property as a prisoner may have in his or her possession or under his or her control at the time of arrest or detention.

(F) *Search of prisoners for weapons.* When making an arrest, members shall search the prisoner carefully and shall immediately take possession of all weapons and evidence. Confiscated weapons shall be marked and labeled with the date, time and the possessor of the weapon at the time of arrest. Confiscated weapons shall be disposed of as directed by court.

(G) *Availability of weapons.* Members shall not place weapons or objects adaptable for use as weapons and capable of inflicting serious bodily injury or permit the weapons or objects to remain unattended in any location normally accessible to a prisoner or suspect.

(H) *Conveying prisoner to magistrate's office or jail.* Members making an arrest shall convey the prisoner or cause him or her to be conveyed to the appropriate detention point without delay and shall at no time accompany him or her to his or her home or room or elsewhere, except with the consent of a superior officer.

(I) *Transporting female prisoners.* Female prisoners shall be transported by a manner in the company of another member, except when impractical to do so. In a case where a second member is not available, the arresting officer shall notify the communication center (dispatcher) of the time of the arrest, his or her speedometer reading, his or her destination and estimated time of arrival at the place of incarceration. Upon arriving at the place of incarceration, the member will notify the dispatcher of his or her arrival and his or her speedometer reading.

(J) *Interrogation of female prisoners.* A male officer shall not talk to a female prisoner or suspect alone in an interrogation room unless there is visibility into the room through a glass or an open door.

(K) *Search of female prisoner.* Female prisoners should not be searched by a member unless an immediate search under one of the following conditions appears to be necessary:

(1) When there is good reason to believe that the person has in her possession a weapon, a poison, a drug or other like means of causing death or injury to herself or another; and/or

(2) When there is good reason to believe that stolen property is hidden about the prisoner and there is imminent danger that it may be thrown away and destroyed.

(Ord. passed - -)

§ 31.23 USE OF POLICE PATROL CARS.

(A) *Function.* Effective this date, members shall be governed by the following policies and procedures regarding captioned subject.

(B) *Who may drive.*

(1) Enforcement members on duty and in uniform;

(2) A police mechanic when road testing a vehicle or when driving a patrol vehicle to a garage or to a member; and/or

(3) A civilian when transporting a police member to a hospital in the event of the member's serious illness or injury and he or she is incapable of driving.

(C) *Wearing of uniform.* Members shall never operate a patrol car unless in uniform without permission of the Police Chief.

(D) *Line patrol.* Members that are assigned line patrol on their daily tour shall operate the cruiser at five mph below the posted speed limits and shall, at no time, patrol a dirt street unless a complaint or emergency traffic exists. Under no condition unless of emergency is any patroler to leave the city limits at night. If there is a need to transport someone to the County Jail, then the Chief of Police must be

notified. Members that have to leave the town limits, then the time, place and reason for leaving must be entered on the daily report. When not patrolling, the rest of the time all other time must be spent patrolling the downtown area (business district). On the evening and night shifts, as much time as possible must be spent on the streets checking the businesses and parking. All parking lots must be checked regularly.

(E) *Mileage during tour of duty.* Members shall record their mileage beginning tour of duty and ending tour of duty. Members then shall record the total mileage on their tour and apply on their daily reports.

(F) *Daily vehicle inspections.* Members shall inspect their vehicles for oil, tires (cuts or bruises), squeaks or rattles and shall list irregularities on their daily reports. In case of something wrong with the patrol car, then it must be reported as soon as it is found.

(G) *Fuel; gasoline fillings.* Members that are operating a cruiser and the fuel indicator registers below half full shall fill the vehicle up before the end of his or her shift. The cruiser should be kept at least half full at all times.

(Ord. passed - -)

§ 31.24 WEAPONS AND USE OF DEADLY FORCE.

(A) *Function.* Effective this date, members shall be governed by the following policies in regard to use and care of weapons.

(B) *Weapons authorized.* Members shall carry firearms while on duty. Shotguns and/or rifles are to be secured in the trunks of police vehicles and are not to be removed, except in the line of duty. Personally owned firearms may be carried by members when off duty in conformance with state and local laws. "Knucks" are prohibited. The supervisor handling the administrative investigation will ensure that a report of medical treatment is completed for anyone injured. The original copy of the report of medical treatment is turned in to the central records section and a copy forwarded to the office of the Chief of Police prior to the end of the duty day.

(C) *Service weapons, off-duty weapons, shotguns, gas gun.* An officer will use his or her firearm or other deadly force only:

(1) To defend himself or herself or a third person from what he or she reasonably believes to be the use of or immediate/imminent use of deadly physical force;

(2) To effect an arrest or to prevent the escape from the officer's custody of a person whom the officer reasonably believes is attempting to escape by means of a deadly weapon or who, by conduct or other means, indicates that he or she presents an immediate/imminent threat of deadly or serious physical injury to others unless or apprehended without delay; and/or

(3) Officers are required to report any discharge, whether accidental or intentional, to a police supervisor as soon as possible after the incident. The supervisor must then file an administrative report prior to the end of the duty day.

(D) *Use of firearms.* Members shall not use firearms unless they believe that their use is necessary to protect themselves (or other persons) from death or serious bodily injury, or unless it is necessary to use deadly force to arrest a person who committed a felony dangerous to human life. Members shall follow these rules in the use of firearms.

(1) Members shall not shoot at a fleeing misdemeanor or fire a warning shot.

(2) A member is authorized to use deadly force, if necessary, to prevent the escape of a fleeing felon if the person fleeing is positively identified as a convicted felon. (The felon must be dangerous to human life while fleeing.) The act of firing at the dangerous felon should only be resorted to if no other means of capture and arrest can reasonably be resorted to by the officer.

(3) Members shall not shoot at a fleeing person who has committed some act which may not be a felony: for example, accusation of hit-and-run or automobile theft.

(4) Members who observe a person in the process of committing or about to commit a felony dangerous to human life are authorized to use deadly force to prevent the felony. This rule only applies when all other means to prevent the felony, short of the use of deadly force, have failed.

(5) If a member is attacked by a person who is being lawfully arrested, the member is authorized to meet force with force, up to the use of deadly force if necessary.

(6) Members shall not draw or display their sidearms in any public place, except when they are to be used for inspection by a superior.

(7) Members firing a gun accidentally or intentionally, except on a target range, shall report the circumstances to their supervisor immediately and shall file a written report of the incident, via channels, to the Police Chief.

(8) Under no circumstances shall a member permit any person, other than another member, to borrow or use a police firearm.

(9) No member shall leave firearms in an unlocked police car.

(E) *Care of firearms.*

(1) Members shall keep their firearms in good condition. They shall clean their revolvers as needed (always after firing). Firearms shall not be used as blackjacks.

(2) Members shall have approximately three to four pounds of pull on triggers of their revolvers (the trigger sear must be filed down).

(3) Members shall not file the sights or weaken the spring of a police revolver.

(4) Pearl handle grip handles on service revolvers are prohibited.

(Ord. passed - -)

§ 31.25 PURSUIT DRIVING.

(A) *Function.* Effective this date, members shall be governed by the following operational procedures regarding pursuit driving.

(B) *Duty to observe law applicable to pursuit.* Members shall carry out the directions of G.S. § 20-145, "The speed limitations set forth in this article shall not apply to vehicles when operated with due regard for safety under the directions of the police in the case of apprehension of violators of the law or of persons charged with or suspected of any violation..." This exemption shall not, however, protect the driver of any vehicle from the consequence of a reckless disregard of the safety of others.

(C) *Safety of general public and members.* Speed of pursuit shall be based upon the seriousness of the offense, the opportunity for the later arrest of the violator, traffic density and the exercise of good judgment. Members shall judge the appropriateness and extent of pursuit driving on the basis of three classifications of violators of the motor vehicle laws:

(1) Technical violators, such as motorists with improper licenses, who may be apprehended later;

(2) Momentary hazardous moving violators, such as drunken drivers, who present a continuing hazard in driving; and

(3) Momentary hazardous moving violators, such as stop sign violators, who resume a lawful operation and present no further hazard.

(D) *Use of siren and blue light.* When the actions of a violator reveal his or her intent to avoid arrest, pursuit should be accompanied by the use of the siren and blue light. Use of the siren and blue light does not guarantee safe pursuit through red signals, yellow colored caution lights, other caution signs or through congested areas. Members engaged in pursuit driving shall take every precaution to see that the pursuit operation will not endanger pedestrians or other motorists.

(E) *Use of excessive speed for non-pursuit incidents.* Members shall not exceed posted speed limits when in route to a traffic collision scene or when responding to a request for assistance, unless greater speed is justified by imminent danger to human life and only then by the activation of the blue light and siren.

(Ord. passed - -)

§ 31.26 DISCIPLINARY REGULATIONS.

(A) *Function.* Effective this date, members shall be governed by the following policies and procedures regarding captioned subject.

(B) *Charges and specifications.*

<i>Charge</i>	<i>Common Examples</i>
Conviction of any criminal offenses	Criminal laws of the United States and any state, and city and county ordinances are included. Details of offense, place and sentence must be specified
False official statement	False statements on police employment applications or any other official form, or any official capacity, including intentional withholding of pertinent information
Insubordination	Failure to abide by, or to conform with any authorized instruction, oral or written (including unexcused absence)
Misconduct involving women	Disreputable or disgraceful conduct with any female
Misuse of alcohol	Overindulgence; reporting for duty under the influence or incapacitated due to prior consumption; unauthorized drinking or use while in uniform; unauthorized transportation in a police vehicle
Misuse of equipment	Misuse of police or city equipment
Violation of police regulation or policy	Violation of any written rule, regulation or procedure

(Ord. passed - -)

CHAPTER 32: FINANCE AND REVENUE

Section

Purchasing, Procuring

- 32.01 Materials, supplies and equipment
- 32.02 Facilities
- 32.03 Joint use of equipment
- 32.04 Professional and consultative services

Fiscal Provisions

- 32.15 Budgets
- 32.16 Accountants
- 32.17 Management of statement and federal grant funds

PURCHASING, PROCURING

§ 32.01 MATERIALS, SUPPLIES AND EQUIPMENT.

(A) The Mayor may procure materials, supplies and equipment within the limits of approved budgets of the town in accord with pertinent state general statutes; and with the understanding that any single item of equipment costing more than \$500 will be submitted to the Mayor of the town for approval prior to purchase.

(B) The Mayor or Clerk shall maintain an up-to-date inventory of all equipment purchased and the equipment will be so marked that it can be identified as the property of the town.

(Ord. passed - -)

§ 32.02 FACILITIES.

Physical facilities suitable in size and location for the operation of the town will be procured by the Mayor subject to approval by the Town Board and within the limits of approved budgets.

(Ord. passed - -)

§ 32.03 JOINT USE OF EQUIPMENT.

Joint use of equipment is encouraged to ensure efficiency and economy when the town's staff is housed in the same facility with another agency. Reimbursement to the agency owning or leasing the equipment will be made on a fair and equitable basis as determined by the Mayor and within the limits of approved budgets.

(Ord. passed - -)

§ 32.04 PROFESSIONAL AND CONSULTATIVE SERVICES.

The Mayor may negotiate and execute agreements for professional and consultative services within the limits of approved budgets and subject to approval by the Town Board.

(Ord. passed - -)

FISCAL PROVISIONS**§ 32.15 BUDGETS.**

The Mayor shall prepare a budget each fiscal year for the operation of the town, to be submitted for approval to the Town Board.

(Ord. passed - -)

§ 32.16 ACCOUNTANTS.

The Town Board may employ an accountant to handle fiscal affairs or the Mayor of the town may, with the agreement of the Town Board, designate one of the Clerks or Town Accountants as the official Town Accountant to perform the function of the Town Accountant. In either event, the function shall be performed under the Municipal or County Fiscal Control Act, being G.S. §§ 159-7 *et seq.*, insofar as post-budget approval of expenditures is concerned.

(Ord. passed - -)

§ 32.17 MANAGEMENT OF STATEMENT AND FEDERAL GRANT FUNDS.

Fiscal records and procedures required by state and federal agencies in the management of state and federal grant funds shall be maintained and followed as mutually agreed by the Mayor and Town Accountant.

(Ord. passed - -)

CHAPTER 33: PERSONNEL

Section

General Provisions

- 33.01 Applicability; definitions
- 33.02 Merit principle
- 33.03 Non-discrimination
- 33.04 Classification plan
- 33.05 Salary plan
- 33.06 Part-time or temporary employees
- 33.07 Pay periods
- 33.08 Qualification standards
- 33.09 Appointments
- 33.10 Nepotism
- 33.11 Probationary period
- 33.12 Dismissal
- 33.13 Suspension
- 33.14 Demotion
- 33.15 Work week
- 33.16 Overtime
- 33.17 Vacation leave
- 33.18 Sick leave
- 33.19 Maternity leave
- 33.20 Holidays
- 33.21 Military leave
- 33.22 Civil leave
- 33.23 Educational leave
- 33.24 Educational and training expenses
- 33.25 Travel and relocation expense
- 33.26 Professional organization dues
- 33.27 Administrative leave
- 33.28 Leave without pay
- 33.29 Worker's compensation
- 33.30 Insurance programs
- 33.31 Local government employees retirement system
- 33.32 Compulsory retirement
- 33.33 Grievance procedure
- 33.34 Outside employment

- 33.35 Political activity restricted
- 33.36 Longevity pay plan

Travel

- 33.50 Public vehicles
- 33.51 Private vehicles
- 33.52 Trip authorization
- 33.53 Public transportation
- 33.54 Subsistence and incidental expense

GENERAL PROVISIONS

§ 33.01 APPLICABILITY; DEFINITIONS.

(A) This chapter shall be applicable to all permanent employees of the town, except the Mayor.

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

COMPLETED MONTH. Any month in which an employee works more than one-half the work days.

COMPLETED YEAR. A period of 12 calendar months in which the employee is in active pay status or is receiving worker's compensation payments while on leave without pay.

FULL-TIME EMPLOYEE. An employee, either permanent or temporary, who is regularly scheduled to work the number of hours per work week designated by the Town Board as full time.

PART-TIME EMPLOYEE. An employee, either permanent or temporary, who is regularly scheduled to work less than the number of hours per work week designated by the Town Board as full time.

PERMANENT EMPLOYEE. A person appointed to serve in a position for an indefinite duration and who has served a period of more than six calendar months.

PROBATIONARY EMPLOYEE. A person appointed to a permanent position who has not yet completed the probationary period.

TEMPORARY EMPLOYEE. A person appointed to serve in a position for a definite duration.
(Ord. passed - -)

§ 33.02 MERIT PRINCIPLE.

All appointments and promotions shall be made solely on the basis of merit and fitness.
(Ord. passed - -)

§ 33.03 NON-DISCRIMINATION.

It is the policy of the town to foster, maintain and promote equal employment opportunity. The town shall select employees on the basis of applicants' qualifications and without regard to sex, race, color, creed, religion, HIV-positive status, or national origin. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their physical disabilities do not represent an unreasonable barrier to satisfactory performance of duties.
(Ord. passed - -)

§ 33.04 CLASSIFICATION PLAN.

The Mayor shall be responsible for the preparation, administration and maintenance of a position classification plan subject to approval of the plan by the Town Board. The classification plan shall include all permanent classes of positions. Classes of positions shall be upgraded, added to and deleted from the position classification plan as required to perform the responsibilities of the town.
(Ord. passed - -)

§ 33.05 SALARY PLAN.

The Mayor shall be responsible for the preparation, administration and maintenance of a salary plan subject to approval of the plan by the Town Board. The salary plan shall include all permanent classes of positions in the classification plan. The salary plan shall consist of a schedule of salary ranges and an assignment of classes to salary ranges. The salary plan shall be reviewed annually and upgraded as required to effectively and efficiently perform the responsibilities of the town.
(Ord. passed - -)

§ 33.06 PART-TIME OR TEMPORARY EMPLOYEES.

The Mayor may employ part-time or temporary employees within the limits of approved budgets and approval by the Town Board.
(Ord. passed - -)

§ 33.07 PAY PERIODS.

Employees shall be paid in accordance with the pay schedule established by the Mayor within the limits of approved budgets and approval by the Town Board.

(Ord. passed - -)

§ 33.08 QUALIFICATION STANDARDS.

Employees shall meet the employment standards established by the position classification plan and other reasonable minimum standards as to character, aptitude, ability to meet the public, physical conditions as may be established by the Town Board.

(Ord. passed - -)

§ 33.09 APPOINTMENTS.

The Mayor shall be responsible for recruiting and recommending appointment of professional level employees to the Town Board within the limits of approved budgets. The Mayor shall be responsible for recruiting and hiring all other employees within the limits of approved budgets.

(Ord. passed - -)

§ 33.10 NEPOTISM.

The employment of members of the same immediate family shall be avoided insofar as possible and, in no event, shall one relative supervise another. *IMMEDIATE FAMILY* is defined as wife, husband, mother, father, daughter, son, sister, brother, half-sister, half-brother, stepmother, stepfather, stepdaughter, stepson, stepsister, stepbrother, grandmother, grandfather, granddaughter, grandson, mother-in-law, father-in-law, daughter-in-law, son-in-law and brother-in-law.

(Ord. passed - -)

§ 33.11 PROBATIONARY PERIOD.

Employees appointed to permanent positions shall serve a probationary period of six months. Employees serving a probationary period, following initial employment in a permanent position, shall receive all benefits provided in accordance with these provisions.

(Ord. passed - -)

§ 33.12 DISMISSAL.*(A) Failure in performance of duties.*

(1) An employee whose work is unsatisfactory over a period of time shall be notified by the supervisor, with approval of the Town Board, in what way the employee's work is deficient and what must be done if the work is to be satisfactory.

(2) An employee who is suspended, demoted or dismissed for unsatisfactory performance of duties shall normally receive at least three warnings before disciplinary action is taken. First, one or more oral warnings must be issued by the employee's supervisor; second, an oral warning with a follow-up letter to the employee must be issued serving notice that corrected performance must take place within a specified length of time in order to avoid disciplinary actions; and third, if performance is not corrected, a letter stating reasons for dismissal will be issued by the Mayor. The supervisor and the Mayor must record the dates of their discussions with the employee, the performance deficiencies discussed and the corrective actions recommended and must file the information in the employee's personnel folder.

(3) The employee must be allowed at least ten work days to respond to the charges before any determination is made by the supervisor concerning a suspension or a demotion, or a determination is made by the Mayor concerning dismissal.

(4) The following causes relating to failure in performance of duties are representative of those considered to be adequate grounds for suspension, demotion or dismissal:

- (a) Inefficiency, negligence or incompetence in the performance of duties;
- (b) Careless, negligent or improper use of town property or equipment;
- (c) Physical or mental incapacity to perform duties;
- (d) Discourteous treatment of the public or other employees;
- (e) Absence without approved leave;
- (f) Habitual improper use of leave privileges; and
- (g) Habitual pattern of failure to report for duty at the assigned time and place.

(B) Failure in personal conduct.

(1) An employee may be suspended, demoted or dismissed for causes relating to personal conduct detrimental to the town's service:

- (a) In order to avoid undue disruption of work;

(b) To protect the safety of persons or property; or

(c) For other serious reasons.

(2) The following causes relating to failure in personal conduct are representative of those considered to be adequate grounds for suspension, demotion or dismissal:

(a) Fraud in securing appointment;

(b) Conviction of a felony or of a misdemeanor which would adversely affect performance of duties, or the entry of a plea of “no contest” to either;

(c) Misappropriation of funds or property;

(d) Improper political activity;

(e) Falsification of the town’s records for personal profit or to grant special privileges;
and/or

(f) Reporting to work under the influence of alcohol or narcotic drugs or partaking of those things while on duty or while on public property; except that, prescribed medication may be taken within the limits set by a physician so long as medically necessary.

(3) An employee suspended, demoted or dismissed for causes relating to personal conduct shall (before disciplinary action) be given a statement of the charges, be allowed to respond in writing and be given a prompt written statement of the decision of the Mayor.

(Ord. passed - -)

§ 33.13 SUSPENSION.

(A) *Disciplinary suspension.* An employee who is suspended for disciplinary reasons shall be relieved temporarily of all duties and responsibilities and shall receive no compensation for the period of suspension.

(B) *Immediate disciplinary suspension.* An employee may be suspended without notice by the department head for causes related to personal conduct in order to avoid undue disruption of work, to protect the safety of persons or property or for other serious reasons. When a department head suspends an employee, he or she shall tell the employee to leave the property at once and remain away until further notice. A written summary giving the circumstances and facts leading to the suspension shall be prepared; one copy shall be delivered to the employee by certified mail; and one copy shall be filed in the employee’s personnel folder.

(C) *Non-disciplinary suspension.*

(1) During the investigation, hearing or trial of an employee on any criminal charge or during the course of any civil action involving an employee, the department head may suspend the employee without pay for the duration of the proceeding as a non-disciplinary action. However, the investigation, hearing, trial or civil action must involve matters that may form the basis for disciplinary suspension, demotion or dismissal in order for the non-disciplinary suspension to be allowed.

(2) Full recovery of pay and benefits for the period of non-disciplinary suspension will be authorized by the Town Board, if the suspension is terminated with full reinstatement of the employee. (Ord. passed - -)

§ 33.14 DEMOTION.

Any employee whose work in his or her present position is unsatisfactory may be demoted by the Mayor, subject to approval of the Town Board, if the employee shows promise of becoming a satisfactory employee in another position.

(Ord. passed - -)

§ 33.15 WORK WEEK.

The standard work week shall run from Sunday through Saturday. Employees shall normally work two eight-hour days per week, Monday through Friday. Standard work hours shall be from 8:30 a.m. to 5:00 p.m. with one-half hour permitted for lunch. Variances in this schedule may be allowed by the Mayor. Administrative and professional personnel shall work those hours necessary to assure the satisfactory performance of their responsibility, but not less than the standard work week described herein. The Mayor has approved more hours for Administration and Maintenance Departments to keep up work. It is approximately 30 – 32 hours weekly, but this varies according to work load. This was included in the 1991-1992 budget, adopted 6-11-1991.

(Ord. passed - -; Am. Ord. – , passed 5- -2005)

§ 33.16 OVERTIME.

(A) Employees other than administrative and professional personnel may be required to work overtime in order to accomplish the work of the town, with the approval of the Mayor.

(B) Employees required to work overtime will receive compensatory time off on an hour-for-hour basis within a one month period; if work demands prohibit exercising the compensatory time provision, the Mayor may authorize overtime pay at his or her discretion.

(Ord. passed - -)

§ 33.17 VACATION LEAVE.

(A) *Vacation earned.* Each full-time employee shall earn vacation leave at the rate of five hours per completed month of service or seven and one-half work days per completed year.

(B) *Granting of vacation leave.* Employees shall be granted the use of earned vacation leave upon request, or at those times designated by the Mayor, which will least obstruct normal operations of the agency.

(C) *Vacation leave accumulation.* Vacation leave may accumulate to a maximum of 15 work days. When the maximum has been accumulated, no additional vacation leave will be earned until some of the accrued leave has been taken.

(D) *Terminal pay.* Upon submission of his or her resignation, an employee shall be paid for vacation leave accumulated to the date of separation; provided, he or she has completed the probationary period and provided he or she has submitted notice to the Mayor at least 30 days in advance of the effective date of resignation. An employee who is involuntarily separated, without fault or delinquency on his or her part, shall be paid for vacation leave accumulated to the date of separation. Compensation for accumulated vacation leave shall not be paid an employee separated for reasons of fault or delinquency or who does not submit the required notice. Upon the death of a permanent employee, compensation for accumulated vacation leave shall be paid to his or her estate.

(Ord. passed - -)

§ 33.18 SICK LEAVE.

(A) *Sick leave is a privilege.* Sick leave with pay is not a right which an employee may demand, but a privilege granted by the town. Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or not later than two hours after the beginning of the scheduled work day. Sick leave, not to exceed the amount earned in the same calendar year, may be advanced at the discretion of the Mayor.

(B) *Sick leave earned.* Each full-time employee shall earn sick leave at the rate of four hours per full calendar month of service.

(C) *Granting of sick leave.* An employee may be granted sick leave from work with pay if his or her absence is due to sickness, bodily injury, quarantine, required physical or dental examinations or treatment, exposure to a contagious disease when continued work might jeopardize the health of others, illness in the employee's family which requires the care of the employee or the funeral of a close personal friend. No more than three days of sick leave may be used for death in the employee's immediate family (as defined in § 31.16).

(D) *Physician's certificate.* The Mayor may require a physician's certificate as to the nature of the illness and as to the employee's physical capacity to resume his or her duties for each occasion on which an employee uses sick leave. The employee may be required to submit to the medical examination or

inquiry as the Mayor deems desirable. The Mayor shall be responsible for the application of this provision to the end that:

(1) Employees shall not be on duty when they might endanger their health or the health of other employees; and

(2) There will be no abuse of sick leave privileges.

(E) *Sick leave accumulation.* Sick leave shall be accumulated with no limit on the maximum accumulation.

(F) *Credit for accumulated sick leave.* Employees who retire, resign in good standing or are dismissed from employment because of reduction in force, and are reinstated, within five years, shall be credited with their previously accumulated sick leave. Employees who are dismissed from employment for reasons other than reduction in force, and employees who are not reinstated within five years, shall lose all sick leave credit. No employee shall be paid for accumulated sick leave.

(G) *Retirement credit.* One month of retirement credit is allowed for each 20 days accrued in an employee's sick leave account at time of retirement to employees who are members of the state local governmental employees' retirement system.

(Ord. passed - -)

§ 33.19 MATERNITY LEAVE.

(A) Limitation of employment before childbirth is prohibited. Accumulated sick leave is available to employees for the period of temporary disability in the same manner as for any other temporary disability. The attending physician shall indicate in writing the period during which the employee is physically unable to work.

(B) (1) Leave without pay for up to six calendar months is available for the time before the employee is disabled and the period of time after the disability ends. The employee may elect to use accumulated vacation leave:

(a) Before going on sick leave;

(b) After accumulated sick leave has been exhausted; and/or

(c) After the temporary disability has ended.

(2) If an employee wishes to retain all accumulated sick leave and vacation leave, leave without pay may be taken for the entire period.

(C) Reinstatement to the same position or one of like classification, seniority and pay shall be made upon the employee's return to work.

(Ord. passed - -)

§ 33.20 HOLIDAYS.

(A) All permanent employees shall receive full pay for the following holidays:

- (1) New Year's Day;
- (2) Easter Monday;
- (3) Thanksgiving Day; and
- (4) Christmas Day, plus one work day before and one work day after.

(B) These authorized holidays will be observed on the traditional days or as designated by state or local governmental officials. Otherwise, if the holiday falls on Saturday, the preceding Friday is a holiday, or if the holiday falls on Sunday, the following Monday is a holiday.

(C) Employees required to work on a holiday observed by the town shall receive compensatory time off during the same month or shall be paid overtime wages for the hours worked on the holiday if compensatory time cannot be given.

(Ord. passed - -)

§ 33.21 MILITARY LEAVE.

An employee who is a member of an armed forces reserve organization or the National Guard shall be granted ten work days of leave with pay for required military training in a calendar year.

(Ord. passed - -)

§ 33.22 CIVIL LEAVE.

An employee called for jury duty, or as a court witness for the federal or state governments or a subdivision thereof, shall be entitled to leave with pay for the duty, up to two weeks, in addition to keeping fees received for the duty.

(Ord. passed - -)

§ 33.23 EDUCATIONAL LEAVE.

(A) The Mayor, subject to approval by the Town Board, may grant an employee a leave of absence at full or part pay to permit the employee to take courses of study which will better equip the employee to perform his or her duties.

(B) An employee granted educational leave, with pay, shall agree to return to the service of the town upon completion of his or her training and remain in the employ of the town for a period equal to triple the educational leave which he or she received, or reimburse the governmental unit for all compensation received while on educational leave.

(Ord. passed - -)

§ 33.24 EDUCATIONAL AND TRAINING EXPENSES.

Upon the recommendation of the Mayor and approval by the Town Board, an employee entering into a job-related educational and training program will be reimbursed full or part payment for necessary expense, such as tuition, books, travel and required fees.

(Ord. passed - -)

§ 33.25 TRAVEL AND RELOCATION EXPENSE.

The Mayor may authorize full or partial payment of travel and relocation expense in the recruitment of permanent professional and supervisory personnel.

(Ord. passed - -)

§ 33.26 PROFESSIONAL ORGANIZATION DUES.

The Mayor may authorize payment of annual fees for membership in professional organizations for professional and supervisory personnel.

(Ord. passed - -)

§ 33.27 ADMINISTRATIVE LEAVE.

During periods in which the Mayor deems it advisable for an employee not to report to work, such as adverse weather conditions, the Mayor may grant administrative leave with pay.

(Ord. passed - -)

§ 33.28 LEAVE WITHOUT PAY.

The Mayor may grant a leave of absence, without pay, to an employee for a period not to exceed six months for reasons of personal or family illness, completion of education or special work which will permit the governmental unit to profit by the experience gained or the work performed.

(Ord. passed - -)

§ 33.29 WORKER'S COMPENSATION.

(A) An employee absent from duty because of sickness or disability covered by the State Worker's Compensation Act may receive worker's compensation benefits and elect to use accumulated vacation and sick leave as a supplemental payment for the difference between his or her regular salary and the payments received under the Worker's Compensation Act, being G.S. §§ 97-1 *et seq.* An employee may have deducted from his or her accumulated vacation or sick leave that fraction of a day which is the same as the fraction that the supplemental payment for one day is a regular day's pay. Upon reinstatement, an employee's salary will be computed on the basis of the last salary earned, plus any increment or other salary increase to which the employee would have been entitled during the disability covered by worker's compensation.

(B) Temporary employees will be placed in a leave without pay status and will receive all benefits for which they may be adjudged eligible under the Worker's Compensation Act.

(Ord. passed - -)

§ 33.30 INSURANCE PROGRAMS.

Group hospitalization, accident and sickness and life insurance programs shall be made available for employee participation. Employees shall be enrolled in the program upon their request or in accordance with the provisions of the insurance contracts. The town may participate in the cost of the programs. At a regular meeting of the town on 6-11-1991, a health insurance plan was adopted in the 1990-1991 budget. It was approved that the town would pay for employee's policy and the employee has the option of covering the family by payroll deduction, to pay the premium, which is pretaxed dollars.

(Ord. passed - -; Ord. passed - -)

§ 33.31 LOCAL GOVERNMENT EMPLOYEES RETIREMENT SYSTEM.

Each employee, as a condition of employment, shall be required to join the approved employee's retirement system.

(Ord. passed - -)

§ 33.32 COMPULSORY RETIREMENT.

Excluding disability or voluntary earlier retirement, each employee shall be retired on June 30 following the sixty-fifth birthday; provided that, subject to the annual recommendation of the Mayor, and approval by the Town Board, the employee may be granted one-year extensions in service to age 70.

(Ord. passed - -)

§ 33.33 GRIEVANCE PROCEDURE.

When an employee or group of employees has a claim or complaint concerning the condition of his or her employment with the town, the following successive steps are to be taken. The number of days indicated at each level should be considered as the maximum number of working days unless provided for otherwise and every effort should be made to expedite the process.

(A) *Step one.* The employee with a grievance shall present the matter orally or in writing to his or her immediate supervisor within ten calendar days of its occurrence or within ten days of the time the employee learns of its occurrence, with the objective of resolving the matter informally. The supervisor should and is encouraged to consult with any employee deemed necessary to reach a correct, impartial and equitable determination and shall give the employee an answer as soon as possible, but within three working days. The grievance and answer shall be reported to the supervisor's immediate superior.

(B) *Step two.* If the grievance is not resolved during step one, the employee or group of employees may file the grievance in writing within ten working days with the Mayor who shall hear the grievance within three working days and render a decision in writing within a maximum of three working days.

(C) *Step three.* If the grievance is not resolved to the satisfaction of the employee or group of employees, they may ask within ten working days that the written grievance presented in step two be referred to the Town Board, who shall arrange a time to hear the employee or group of employees and their representative and give an answer in writing within ten days.

(Ord. passed - -)

§ 33.34 OUTSIDE EMPLOYMENT.

(A) The work of the town shall have precedence over the other occupational interests of employees.

(B) All outside employment for salary, wages or commission and self-employment must be reported to and approved by an employee's supervisor and the Mayor.

(C) Conflicting outside employment shall be grounds for dismissal or other disciplinary action.

(Ord. passed - -)

§ 33.35 POLITICAL ACTIVITY RESTRICTED.

(A) Every employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the state and in accordance with the Constitution and laws of the United States of America.

(B) However, no employee shall:

(1) Engage in any political activity while on duty;

(2) Be required as a duty of his or her office or employment, promotion or tenure of office to contribute funds for political or partisan purposes;

(3) Coerce or compel contributions for political or partisan purposes by any other employee of the governmental unit; or

(4) Use any supplies or equipment of the town for political purposes.

(C) Employees are subject to the Hatch Act, as amended in 1975, being 5 U.S.C. §§ 1501 *et seq.* This federal act, in addition to prohibiting divisions (B)(2), (B)(3) and (B)(4) above, also prohibits candidacy for elective office in a partisan election.

(D) Any violation of this section shall subject the employee to dismissal or other disciplinary action. (Ord. passed - -)

§ 33.36 LONGEVITY PAY PLAN.

The longevity pay plan shall consist of the following.

(A) An employee who has accumulated from six months to a year's continuous service as of December 31 of any calendar year will receive an additional 0.5% of his or her wages paid during the calendar year, up to a maximum amount as set out in the fee schedule on file in the Town Clerk's office. An employee who has accumulated from one to five years continuous service as of December 31 of any calendar year will receive an additional 1% of his or her wages paid during the calendar year, up to a maximum amount as set out in the fee schedule on file in the Town Clerk's office. An employee who has accumulated over five years continuous service shall receive 1.5% of his or her wages paid during the calendar year, up to a maximum amount as set out in the fee schedule on file in the Town Clerk's office.

(B) The longevity pay plan shall apply only to permanent full-time and permanent part-time employees working at least 16 hours per week for the town.

(C) If an employee terminates employment with the town, either voluntarily or by administrative dismissal with cause, prior to the December 31 date, the employee will not receive any longevity award.
(Ord. passed - -)

TRAVEL

§ 33.50 PUBLIC VEHICLES.

Vehicles owned or operated by the town shall be used whenever available for travel within the town.
(Ord. passed - -)

§ 33.51 PRIVATE VEHICLES.

When vehicles owned or operated by the town are not available, the Mayor may authorize the use of private vehicles for official agency travel within or outside the town. Authorized travel in private vehicles shall be reimbursed at a rate to be determined annually by the Town Board. Detailed mileage records shall be maintained.
(Ord. passed - -)

§ 33.52 TRIP AUTHORIZATION.

Each trip to a destination outside the town must be authorized by the Mayor.
(Ord. passed - -)

§ 33.53 PUBLIC TRANSPORTATION.

The Mayor may authorize the use of public transportation by employees of the town if warranted for more effective and efficient conduct of official business. Authorized travel by public transportation will be reimbursed at actual expense of transportation.
(Ord. passed - -)

§ 33.54 SUBSISTENCE AND INCIDENTAL EXPENSE.

Employees and members of the town, traveling on official business shall be paid a subsistence allowance as follows:

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(A) *Outside the town.* Actual expenses for room and meals, plus actual cost of telephone calls and similar items incident and necessary to the performance of official business while in travel status, supported by receipts or records and judged reasonable by the Mayor; and

(B) *Within the town.* Expenses shall be limited to private automobile expenses as determined in § 33.51 and meals unless attending a meeting or conference where a registration fee is required. Registration fees will be paid by the town.

(Ord. passed - -)

TITLE V: PUBLIC WORKS

Chapter

50. SOLID WASTE

51. WATER

CHAPTER 50: SOLID WASTE

Section

50.01 County solid waste management plan adopted

50.02 Collection and disposal

50.99 Penalty

§ 50.01 COUNTY SOLID WASTE MANAGEMENT PLAN ADOPTED.

The county's solid waste management plan is adopted by reference and incorporated herein as if set out in full.

(Res. passed 11-18-2008)

§ 50.02 COLLECTION AND DISPOSAL.

(A) The town, pursuant to and under the authority of G.S. § 160A-192 does hereby find and determine that the establishment of a garbage collection and disposal ordinance will promote a good environment for the community. Local governments are required to maintain a solid waste reduction program.

(B) (1) *Recyclables*. Items that should be recycled are as follows: (All these can be bagged together if the town picks up. A person can help the environment by separating and taking to a local dump.)

(a) Newspaper;

(b) Aluminum and metal cans; and

(c) Glass and plastic.

(2) *Hazard items*. Any needles, blood products or items with blood on them must be disposed of by the customer.

(3) *Regular trash*. Regular trash consists of all other household garbage and must be bagged to be collected by the town. Trash pick-up at each household or business will be limited to six bags per

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pick-up. The bags must not weigh over 40 pounds. Bags that are not picked up as being in violation of this section must be disposed of by the customer within one week.

(4) *Yard debris.* Yard debris should be used as mulch or disposed by the customer. Yard debris may be bagged for pick-up, but is included in the six-bag limit.

(5) *Cardboard.* Cardboard must be cut up and bagged or disposed by customer.

(C) Trash must be out by the curb or street or will not be picked up.

(D) A mandatory garbage fee in an amount as set out in the fee schedule on file in the Town Clerk's office will be added to each water hook-up per household or business per month within the town limits. A penalty will be assessed on the twentieth day of the month if not paid, in an amount as set out in the fee schedule on file in the Town Clerk's office.

(Ord. passed 8-21-2007; Ord. passed 9-18-2007) Penalty, see § 50.99

§ 50.99 PENALTY.

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

(B) Any person found guilty of violating § 50.02 shall be guilty of a misdemeanor and shall be fined in an amount as set out in the fee schedule on file in the Town Clerk's office.

(Ord. passed 8-21-2007)

CHAPTER 51: WATER

Section

Water Shortage Response Plan

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Supply and Distribution

- 51.50 Connection required
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WATER SHORTAGE RESPONSE PLAN

§ 51.01 PURPOSE.

The procedures herein are written to reduce potable water demand and supplement existing drinking water supplies whenever existing water supply sources are inadequate to meet current demands for potable water.

(Res. passed 4-20-2010)

§ 51.02 AUTHORIZATION.

The Town Clerk shall enact the following water shortage response provisions whenever the trigger conditions outlined in § 51.05 are met. In his or her absence, the Town Mayor will assume this role.

(Res. passed 4-20-2010)

§ 51.03 NOTIFICATION.

The following notification methods will be used to inform water system employees and customers of a water shortage declaration: employee e-mail announcements, notices at municipal buildings, notices in water bills. Required water shortage response measures will be communicated through *The Sampson Independent*. Declaration of emergency water restrictions or water rationing will be communicated to all customers by telephone through use of reverse 911.

(Res. passed 4-20-2010)

§ 51.04 LEVELS OF RESPONSE.

(A) Five levels of water shortage response are outlined in the table below. The five levels of water shortage response are: voluntary reductions, mandatory reductions I and II, emergency reductions and water rationing. A detailed description of each response level and corresponding water reduction measures follow below.

<i>Stage</i>	<i>Response</i>	<i>Description</i>
1	Voluntary reductions	Water users are encouraged to reduce their water use and improve water use efficiency; however, no penalties apply for non-compliance. Water supply conditions indicate a potential for shortage
2	Mandatory reductions I	Water users must abide required water use reduction and efficiency measures; penalties apply for non-compliance. Water supply conditions are significantly lower than the seasonal norm and water shortage conditions are expected to persist
3	Mandatory reductions II	Same as in Stage 2
4	Emergency reductions	Water supply conditions are substantially diminished and pose an imminent threat to human health or environmental integrity
5	Water rationing	Water supply conditions are substantially diminished and remaining supplies must be allocated to preserve human health and environmental integrity

(B) In Stage 1, voluntary reductions, all water users will be asked to reduce their normal water use by 5%. Customer education and outreach programs will encourage water conservation and efficiency measures including: irrigating landscapes a maximum of one inch per week; preventing water waste, runoff and watering impervious surfaces; watering plants deeply to encourage root growth; washing only full loads in clothes and dishwashers; using spring-loaded nozzles on garden hoses; and identifying and repairing all water leaks.

(C) In Stage 2, mandatory reductions I, all customers are expected to reduce their water use by 10% in comparison to their previous month's water bill. In addition to continuing to encourage all voluntary reduction actions, the following restrictions apply: irrigation is limited to one-half inch per week between 8:00 p.m. and 8:00 a.m.; outdoor use of drinking water for washing impervious surfaces is prohibited; and all testing and training purposes requiring drinking water (e.g., fire protection) will be limited.

(D) In Stage 3, mandatory reductions II, customers must continue actions from all previous stages and further reduce water use by 20% compared to their previous month's water bill. All non-essential uses of drinking water are banned and garden and landscape irrigation must be reduced to the minimum amount necessary for survival. Additionally, in Stage 3, a drought surcharge of one and one-half times the normal water rate applies.

(E) In Stage 4, emergency reductions, customers must continue all actions from previous stages and further reduce their water use by 25% compared to their previous month's water bill. A ban on all use of drinking water, except to protect public health and safety is implemented and drought surcharges increase to two times the normal water rate.

(F) The goal of Stage 5, water rationing, is to provide drinking water to protect public health (e.g., residences, residential health care facilities and correctional facilities). In Stage 5, all customers are only

permitted to use water at the minimum required for public health protection. Firefighting is the only allowable outdoor water use and pickup locations for distributing potable water will be announced according to the county's emergency response plan. Drought surcharges increase to five times the normal water rate.

(Res. passed 4-20-2010)

§ 51.05 TRIGGERS.

The town is provided water by purchase from the County Water and Sewer District. When the County Water and Sewer District declares a water shortage, the town is required to do so as well. During this time, the Town Clerk will stay in close contact with the County Water and Sewer District and follow their triggers.

(Res. passed 4-20-2010)

§ 51.06 ENFORCEMENT.

The provisions of the water shortage response plan will be enforced by Town Utility Department. Violators may be reported to the town. Citations are assessed according to the schedule as amended from time to time and on file in the Clerk's office, depending on the number of prior violations and current level of water shortage. Drought surcharge rates are effective in Stages 3, 4 and 5.

(Res. passed 4-20-2010)

§ 51.07 PUBLIC COMMENT.

Customers will have multiple opportunities to comment on the provisions of the water shortage response plan. First, a draft plan will be published in *The Sampson Independent*. A public hearing will be scheduled with notice printed in all customer water bills to collect comments on the draft. All subsequent revisions to the draft plan will be published at least 30 days prior to an adoption vote by the Town Board of Commissioners.

(Res. passed 4-20-2010)

§ 51.08 VARIANCE PROTOCOLS.

Applications for water use variance requests are available from the Town Hall. All applications must be submitted to the Town Hall for review by the Town Clerk or his or her designee. A decision to approve or deny individual variance requests will be determined within two weeks of submittal after careful consideration of the following criteria: impact on water demand, expected duration, alternative source options, social and economic importance, purpose (i.e., necessary use of drinking water) and the prevention of structural damage.

(Res. passed 4-20-2010)

§ 51.09 EFFECTIVENESS.

The effectiveness of the town's water shortage response plan will be determined by comparing the stated water conservation goals with observed water use reduction data. Other factors to be considered include frequency of plan activation, any problem periods without activation, total number of violation citations, desired reductions attained and evaluation of demand reductions compared to the previous year's seasonal data.

(Res. passed 4-20-2010)

§ 51.10 REVISION.

The water shortage response plan will be reviewed and revised as needed to adapt to new circumstances affecting water supply and demand, following implementation of emergency restrictions, and, at a minimum of every five years, in conjunction with the updating of our local water supply plan. Further, a water shortage response planning work group will review procedures following each emergency or rationing stage to recommend any necessary improvements to the plan to the Town Board of Commissioners. The town is responsible for initiating all subsequent revisions.

(Res. passed 4-20-2010)

WATER SYSTEM RULES AND REGULATIONS**§ 51.25 CLASSIFICATION OF SERVICE.**

All services are classified under one category to include residential, schools, churches and commercial users.

(Ord. passed 10-27-1983)

§ 51.26 RATE SCHEDULE AND TAP-ON FEES.

Rates and fees shall be as set out in the fee schedule on file in the Town Clerk's office.

(Ord. passed --; Ord. passed 10-27-1983; Ord. passed 10-16-2001; Ord. passed 7-17-2007; Ord. passed 8-18-2009; Ord. passed 2-15-2011)

§ 51.27 APPLICATION FOR SERVICE.

(A) Service will be supplied only to those who are residents of the town or to outside customers who have applied for and have received approval from the town. It is understood that service to outside customers would be provided only where water lines are readily available.

Autryville - Public Works

(1) When an outside customer has requested a tap at a location and the service is rendered and, later, he or she requests the service be discontinued, the town may do so. When the service is requested again, from the same customer, the town will charge a reconnection fee the first time, in an amount as set out in the fee schedule on file in the Town Clerk's office. There will be a progressive fee charged each time thereafter, if it is the same customer, as set out in the fee schedule on file in the Town Clerk's office.

(2) When an inside customer has requested a tap at a location and the service is rendered and, later, he or she requests the service be discontinued due to unimproved property that has burned or been torn down, the town may do so, but when the service is requested again, the town will charge a reconnection fee in an amount as set out in the fee schedule on file in the Town Clerk's office.

(B) Customers will make application for service, in person, at the Town Clerk's office and at the same time make the deposit guarantee required as shown on the fee schedule in the Town Clerk's office.

(C) The town may reject any application for service not available under a standard rate or which involves excessive service cost, or which may affect the quality of service to other customers or for other good and sufficient, reasons, in which case the fee will be refunded.

(D) The town may reject any application for service when the applicant is delinquent, in payment of bills incurred for service previously supplied at any location; provided that, when the owner of the premises has been served water and has not paid for the same, the town shall not be required to render service to anyone at the location where the water was used until the water bill has been paid.

(Ord. passed 10-27-1983; Ord. passed 5-17-2005)

§ 51.28 DEPOSIT.

(A) All customers will make a minimum cash deposit in an amount as set out in the fee schedule on file in the Town Clerk's office. Deposits shall not draw interest.

(B) The individual in whose name the deposit is made shall be responsible for payment of all bills incurred in connection with the service furnished.

(C) The deposit receipt is not negotiable and can be redeemed only at the Town Clerk's office.

(D) A separate deposit is required for each meter installed.

(E) Where the town finds that the request for a deposit refund is questionable, the town may require the applicant for refund to produce the deposit receipt properly endorsed.

(F) After one calendar year from date of deposit, the town may return property owner's water deposit, who have maintained good credit. (On rental property, the town may hold the deposit for the

landlord, causing him or her to be liable for the tenants bill if the landlord wishes. This causes the tenant not to make a deposit.)

(Ord. passed - -; Ord. passed 10-27-1983)

§ 51.29 INITIAL OR MINIMUM CHARGE; SEPARATE CONNECTIONS.

(A) The initial or minimum charge, as provided in the rate schedule, shall be made for each meter installed, regardless of location. Each meter requires a separate meter sheet and each meter reading sheet shall cover a separate and individual account.

(B) Where service is furnished to a consumer during certain months only, the minimum charge per service for the period of non-use shall be the regular minimum as set out in the published rates of the town.

(C) (1) Water furnished for a given lot shall be used on that lot only.

(2) Each consumer's service must be separately metered at a single delivery and metering point. Each commercial unit and each storeroom or stall used for business purposes shall have a separate meter.

(3) All commercial use, including storerooms and stalls for business purposes, shall be metered separately from any residential use and vice versa, whether now in service or to be installed in the future.

(D) Every individual party, family or apartment shall be served through a separate tap. Each apartment in a common or multiple-dwelling building shall be served by a single separate tap.

(Ord. passed 10-27-1983)

§ 51.30 TOWN'S RESPONSIBILITY AND LIABILITY.

(A) The town shall run a service line from its distribution line to the property line where the distribution line runs immediately adjacent and parallel to the property to be served and for which a tap-on fee then in effect for each size of meter will be charged.

(B) The town may install its meter at the property line or, at the town's option, on the consumer's property or in a location mutually agreed upon.

(C) When two or more meters are to be installed on the same premises for different consumers, they shall be closely grouped and each clearly designated as to which consumer it applies.

(D) The town does not assume the responsibility of inspecting the consumer's piping or apparatus and will not be responsible therefor.

(E) The town reserves the right to refuse service unless the consumer's lines or piping are installed in a manner as to prevent cross connections or backflow.

(F) The town shall not be liable for damage of any kind whatsoever resulting from water or the use of water on the consumer's premises, unless the damage results directly from negligence on the part of the town. The town shall not be responsible for any damage done by or resulting from any defect in the piping, fixtures or appliances on the consumer's premises. The town shall not be responsible for negligence of third persons or forces beyond the control of the town resulting in any interruption of service.

(G) Under normal conditions, the consumer will be notified of any anticipated interruption of service.

(Ord. passed 10-27-1983)

§ 51.31 CONSUMER'S RESPONSIBILITY.

(A) Piping on the consumers's premises must be so arranged that the connections are conveniently located with respect to the town's lines or mains.

(B) If the consumer's piping on consumer's premises is so arranged that the town is called upon to provide additional meters, each place of metering will be considered as a separate and individual account.

(C) Where a meter is placed on the premises of a consumer, a suitable place shall be provided by consumer for placing the meter, unobstructed and accessible at all times to the meter reader.

(D) The consumer shall furnish and maintain a private cut-off valve on the consumer's side of the meter; the town to provide a like valve on the town's side of the meter.

(E) The consumer's piping and apparatus shall be installed and maintained by the consumer at the consumer's expense in a safe and efficient manner and in accordance with the town's rules and regulations and in full compliance with the sanitary regulations of the State Department of Human Resources, Division of Health Services.

(F) The consumer shall guarantee proper protection for the town's property placed on the consumer's premises and shall permit, access to it only by authorised representatives of the town. In the event that any loss or damage to the property of the town or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the consumer, his or her agent or employees, the cost of the necessary repairs or replacements shall be paid by the consumer to the town, and any liability otherwise resulting shall be assumed by the consumer.

(G) The amount of the loss or damage or the cost of repairs shall be added to the consumer's bill and, if not paid, service may be discontinued by the town.

(Ord. passed 10-27-1983)

§ 51.32 EXTENSIONS TO MAINS AND SERVICES.

(A) *Distribution lines for undeveloped subdivisions.* Water distribution lines to serve undeveloped subdivisions will be handled as follows.

(1) The developer will submit plans and specifications for reviews and approval of the town, its engineer and the State Division of Health Services.

(2) The developer will install the lines in accordance with the approved plans and specifications.

(3) Upon completion of the new extension, the developer will deed the complete facility, to include all rights-of-way, easements, permits, franchises and authorizations or other instruments needed for the operation and maintenance of the facility to the town. The town will not reimburse the developer for the extension.

(B) *Other extensions.* Other extensions of water lines within the town's service areas will be handled as follows.

(1) The plans and specifications for the extension will be submitted for review and approval by the town, its engineer and the State Division of Health Services.

(2) The lines will be installed in accordance with the approved plans and specifications.

(3) Prior to or upon completion of the new extension, all rights-of-way, easements, permits, franchises and authorizations or other instruments needed for the installation, operation and maintenance of the facility, will be deeded to the town. The cost involved in the new extension will be paid by the person or persons requesting the extension.

(Ord. passed 10-27-1983)

§ 51.33 ACCESS TO PREMISES.

(A) Duly authorized agents of the town shall have access at all reasonable hours to the premises of the consumer for the purpose of installing or removing town's property, inspecting piping, reading or testing meters or for any other purpose in connection with the town's service and facilities.

(B) Each consumer shall grant or convey or shall cause to be granted or conveyed to the town a perpetual easement and right-of-way across any property owned or controlled by the consumer wherever the perpetual easement and right-of-way is necessary for the town water facilities and lines so as to be able to furnish service to the consumer.

(Ord. passed 10-27-1983)

§ 51.34 CHANGE OF OCCUPANCY.

(A) Not less than three days' notice must be given in person or in writing at the Town Clerk's office to discontinue service for a change in occupancy.

(B) The outgoing party shall be responsible for all water consumed up to the time of departure or the time specified for departure, whichever period is longest.
(Ord. passed 10-27-1983)

§ 51.35 METER READING; BILLING; COLLECTING.

(A) Meters will be read and bills rendered on a monthly basis, but the town reserves the right, to vary the dates or length of period covered, temporarily or permanently if necessary or desirable.

(B) Bills for water will be figured in accordance with the town's published rate schedule then in effect and will be based on the amount consumed for the period covered by the meter readings.

(C) Charge for service commences when meter is installed and connection made, whether used or not. Sixty days may be all owed for hookup on initial installation of the water system.

(D) Readings from different meters will not be combined for billing, irrespective of the fact that meters may be for the same or different, premises or for the same or different consumers, or for the same or different services.

(E) Bills are due when rendered and become delinquent 20 days thereafter, whereupon a penalty of 10% per month will be added; and if not paid in 30 days, service will be discontinued by the town. The policy shall be due by the tenth; penalty added by the twentieth; cut off the first day of the month. A fee of will be charged for a bad check, in an amount as set out in the fee schedule on file in the Town Clerk's office. If more than two have occurred, only accept cash or money order. Any bills three months old shall be turned over to the attorney for collecting by process of law.

(F) The landowner is responsible for the water bill. The account can be put in a tenant's name, but when he or she leaves, the bill falls back to the owner. Therefore, where a meter is located a minimum bill will be collected.

(G) Churches are exempted from obtaining a water meter.

(H) Failure to receive bills or notices shall not prevent the bills from becoming delinquent or relieve the consumer from payment.
(Ord. passed - -; Ord. passed 10-27-1983; Ord. passed 5-17-2005; Ord. passed 9-18-2007; Ord. passed 1-15-2008)

§ 51.36 SUSPENSION OF SERVICE.

(A) When services are discontinued and all bills paid, the deposit will be refunded.

(B) Upon discontinuance of service for non-payment of bills, the deposit will be applied by the town toward settlement of the account. Any balance will be refunded to the consumer; but if the deposit is not sufficient to cover the bill, the town may proceed to collect the balance in the usual way provided by law for the collection of debts.

(C) Service discontinued for non-payment of bills will be restored only after bills are paid in full, re-deposit made and a service charge paid for each meter reconnected, in an amount as set out in the fee schedule on file in the Town Clerk's office. If a customer requests water to be cut on after office hours for non-payment, the reconnect will be charged in an amount as set out in the fee schedule on file in the Town Clerk's office .

(D) The town reserves the right to discontinue its service without notice for the following additional reasons:

- (1) To prevent fraud or abuse;
- (2) Consumers willful disregard of the town's rules and regulations;
- (3) Emergency repairs;
- (4) Insufficiency of supply due to circumstances beyond the town's control;
- (5) Legal processes;
- (6) Direction of public authorities; and
- (7) Strike, riot, fire, flood, accident or any unavoidable cause.

(E) The town may, in addition to prosecution by law, permanently refuse service to any consumer who tampers with a meter or other measuring device.

(Ord. passed 10-27-1983; Ord. passed 5-17-2005)

§ 51.37 COMPLAINTS; ADJUSTMENTS.

(A) If the consumer believes his or her bill to be in error, he or she shall present his or her claim, in person, at the Town Clerk's office before the bill becomes delinquent. The claim, if made after the bill has become delinquent, shall not be effective in preventing discontinuance of service as heretofore provided. The consumer may pay the bill under protest and the payment shall not prejudice his or her claim.

(B) The town will make special meter readings at the request of the consumer for a fee in an amount as set out in the fee schedule on file in the Town Clerk's office; provided, however, that, if the special reading discloses that the meter was over-read, no charge will be made.

(C) Meters will be tested at the request of the consumer upon payment to the town of the actual cost to the town of making the test; provided, however, that, if the meter is found to over-register beyond 2% of the correct volume, no charge will be made.

(D) If the seal of a meter is broken by other than the town's representative or if the meter fails to register correctly or is stopped for any cause, the consumer shall pay an amount estimated for the record of his or her previous bills and/or from other proper data.

(Ord. passed 10-27-1983)

§ 51.38 ABRIDGEMENT OR MODIFICATION OF RULES.

(A) No promise, agreement or representation of any employee of the town shall be binding upon the town, except as it shall have been agreed upon in writing, signed and accepted by the acknowledged Board of Commissioners of the town.

(B) No modification of rates or any of the rules and regulations shall be made by any agent or employee of the town.

(Ord. passed 10-27-1983)

§ 51.39 WATER LEAKS ON PERSONAL PROPERTY.

The consumer may appear before the Board of Commissioners at the next regularly scheduled meeting of the Board of Commissioners to request a financial resolution to their issue of inability to pay the water bill. The Board of Commissioners is granted full power to give the consumer a unique resolution that shall not set a precedent for any other consumer. If the consumer fails to appear before the Board of Commissioners at their regularly scheduled meeting immediately following the receipt of their water bill, the consumer will thereby forfeit their ability to request this aforementioned financial resolution, and their water bill will become delinquent if not paid in full.

(Res. passed 2-16-2021)

SUPPLY AND DISTRIBUTION**§ 51.50 CONNECTION REQUIRED.**

Each owner of improved property located in the town shall connect the plumbing system of his or her premises with the town's water system.

(Ord. passed 12-13-1983)

§ 51.51 CROSS-CONNECTION PROHIBITED.

There shall be no cross-connections of the town's water system with any other private or public system, except the system of the Town of Stedman and Sampson County.

(Ord. passed 12-13-1983)

§ 51.52 RULES AND REGULATIONS.

The rules and regulations set out in §§ 51.25 through 51.38 apply.

(Ord. passed 12-13-1983)

§ 51.53 CUTTING OFF WATER SERVICE.

The town reserves the right to cut off any water services in emergencies or in cases of failure to comply with the regulations.

(Ord. passed 12-13-1983)

§ 51.54 INTERFERENCE WITH WATER WORKS.

(A) It shall be unlawful to interfere in any way with any of the buildings, wells, reservoirs, tanks, pipes, meters or connections or with the water in same or with any apparatus forming a part of the water works system, to make any connection therewith, except as herein provided for, or to knowingly permit same to be done or to knowingly use water from the unauthorized connection.

(B) Neither shall any authorized consumer be allowed to supply water to other persons or families nor take or carry away water from any authorized connection or from any hydrant, watering trough or public fountain without the consent of the town.

(Ord. passed 12-13-1983) Penalty, see § 51.99

§ 51.99 PENALTY.

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

(B) The following fines apply, as regarding §§ 51.01 through 51.10:

<i>Water Shortage Level</i>	<i>First Violation</i>	<i>Second Violation</i>	<i>Third Violation</i>
Voluntary reductions	N/A	N/A	N/A
Mandatory reductions (Stages 2 and 3)	Warning	Fine - see fee schedule	Discontinuation of service
Emergency reductions	Fine - see fee schedule	Discontinuation of service	Discontinuation of service
Water rationing	Fine - see fee schedule	Discontinuation of service	Discontinuation of service

(C) Any person found guilty of violating §§ 51.50 through 51.54 shall be guilty of a misdemeanor and shall be fined in an amount as set out in the fee schedule on file in the Town Clerk's office, or imprisoned for not more than 30 days.

(Ord. passed 12-13-1983; Res. passed 4-20-2010)

TITLE VII: TRAFFIC CODE

Chapter

70. TRAFFIC SCHEDULES

71. PARKING SCHEDULES

CHAPTER 70: TRAFFIC SCHEDULES

Schedule

I. Speed limits

SCHEDULE I. SPEED LIMITS.

<i>Street</i>	<i>Location</i>	<i>Speed Limit</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Gray Street (S.R. 1414)	From a point 725 feet south of the Atlantic Coast Line Railroad crossing to the northern corporate limit, approximately 1,110 feet north of North Street	35 mph	5	6-7-1977

CHAPTER 71: PARKING SCHEDULES

Schedule

I. Prohibited parking

SCHEDULE I. PROHIBITED PARKING.

<i>Street</i>	<i>Location</i>	<i>Side</i>	<i>Prohibition</i>	<i>Ord. No.</i>	<i>Date Passed</i>
N.C. Highway 24	From Mill Street to Cooper Street in front of the trailer park	North	No parking any time	15	6-13-1989
	From the center of Gray Street, 125 feet east and from the center of Hotel Street, 108 feet west	North	No parking any time	19	2-13-1990
	300-foot block from Gray Street to Hotel Street	South	No parking designated by stripping asphalt	20	12-11-1990

TITLE IX: GENERAL REGULATIONS

Chapter

90. ANIMALS

91. NUISANCES

92. PARADES AND DEMONSTRATIONS

93. FALSE ALARMS

CHAPTER 90: ANIMALS

Section

General Provisions

- 90.01 Purpose
- 90.02 Authority
- 90.03 Jurisdiction
- 90.04 Other animal control functions
- 90.05 Bird sanctuary

Impoundment of Certain Dogs and Cats

- 90.15 Authorization for impoundment
- 90.16 Duration of impoundment
- 90.17 Wounded or diseased animals

Reclaiming or Adopting Impounded Animals

- 90.30 Reclaiming by owner
- 90.31 Adoption

Editor's note:

This chapter is based on the Sampson County animal control ordinance. These regulations were approved by first reading by the county at regular meeting held 3-3-2008; by second reading on 4-7-2008. The town adopted the county's provisions by resolution on 5-20-2008.

GENERAL PROVISIONS

§ 90.01 PURPOSE.

(A) The County Board of Commissioners finds that unwanted and unattended animals constitute nuisances to and are the source of complaints from the county's citizens, are often subjected to inhumane conditions, may create hazards to motorists and procreate and thereby increase in number.

(B) The Board of Commissioners finds that each of these conditions constitutes a detriment to the public health, welfare and safety of the county's citizens.
(Res. passed 5-20-2008)

§ 90.02 AUTHORITY.

The Board of Commissioners has established an Animal Control Department and pursuant to the authority contained in G.S. §§ 153A-121, 153A-122, 153A-442 and 67-30 hereby establishes, adopts and ordains this chapter to address issues related to animal control.
(Res. passed 5-20-2008)

§ 90.03 JURISDICTION.

This chapter shall be applicable in all portions of the county not within any municipality.
(Res. passed 5-20-2008)

§ 90.04 OTHER ANIMAL CONTROL FUNCTIONS.

The County Animal Control Department and its Animal Control Officers are authorized and directed to conduct any other animal control activities prescribed by and consistent with the general statutes of the state.
(Res. passed 5-20-2008)

§ 90.05 BIRD SANCTUARY.

(A) The area embraced within the corporate limits of the town and all lands owned or leased by the town outside the corporate limits are hereby designated as a "bird sanctuary".

(B) It shall be unlawful to trap, hunt, shoot or otherwise intentionally kill, within the sanctuary established by division (A) above, any domestic or wild bird; provided that, in accordance with G.S. § 160A-188, it shall be lawful to trap, hunt or otherwise kill any species of bird declared a "pest" by the Commissioner of Agriculture or the Pesticide Control Board.

(C) The Town Clerk is authorized to erect signs, giving notice of "bird sanctuary", at places and of a design as may be approved by the Commissioners of the town.
(Ord. passed 1-1-1994) Penalty, see § 10.99

IMPOUNDMENT OF CERTAIN DOGS AND CATS**§ 90.15 AUTHORIZATION FOR IMPOUNDMENT.**

Any dog or cat over the age of four months and not displaying a current rabies vaccination tag, or any puppy or kitten under the age of four months, found upon the premises of someone other than its owner, or upon any public property or public street right-of-way, is deemed to have been abandoned by its lawful owner and may be seized by the person in control of the premises or by any Animal Control Officer and taken to the animal shelter for impoundment.

(Res. passed 5-20-2008)

§ 90.16 DURATION OF IMPOUNDMENT.

(A) The duration of the impoundment of these animals shall not be less than 72 hours, except as provided in § 90.17.

(B) During the impoundment period, the Animal Control Department shall make a reasonable effort to locate the owner of the animal.

(C) If the animal is not reclaimed by its owner during the impoundment period, the animal shall be disposed of in one of the following manners: returned to the owner; adopted as a pet by a new owner; sold to institutions within the state registered by the United States Department of Agriculture pursuant to the Federal Animal Welfare Act, as amended, being 7 U.S.C. §§ 2131 *et seq.*; or put to death by a procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or of the American Humane Association.

(D) The Animal Control Department shall maintain a record of all animals impounded under this section which shall include the date of impoundment, the length of impoundment, the method of disposal of the animal and the name of the person or institution to whom or which any animal has been released.

(Res. passed 5-20-2008)

§ 90.17 WOUNDED OR DISEASED ANIMALS.

Any impounded animal which is badly wounded or diseased, other than one suspected of having rabies, and without displaying identification as to its owner, shall be destroyed immediately in a humane manner. If the badly wounded or diseased animal displays identification as to its owner, the Animal Control Department shall attempt to notify the owner before destroying the animal; but if the owner cannot be reached readily and the animal is suffering, the Animal Control Department may destroy the animal, at its discretion, in a humane manner.

(Res. passed 5-20-2008)

RECLAIMING OR ADOPTING IMPOUNDED ANIMALS**§ 90.30 RECLAIMING BY OWNER.**

Any owner reclaiming an impounded animal shall pay any shelter fees in effect at the time the animal is reclaimed. In addition, the owner shall either provide proof that the animal has a current rabies vaccination and has been sterilized or shall pay a rabies vaccination fee and a sterilization fee in amounts as are set by the Board of Commissioners from time to time. The rabies vaccination fee and the sterilization fee shall be refunded upon the owner providing proof that the animal has received a rabies vaccination and has been spayed or neutered. Refunds shall be made under other conditions and limitations as are established by the Animal Control Department.

(Res. passed 5-20-2008)

§ 90.31 ADOPTION.

Any adult person may adopt an impounded animal that is not reclaimed by its owner. The adopter shall pay a rabies vaccination fee and a sterilization fee in amounts as are set by the Board of Commissioners from time to time. The rabies vaccination fee and the sterilization fee shall be refunded upon the adopter providing proof that the animal has received a rabies vaccination and has been spayed or neutered. Refunds shall be made under other conditions and limitations as are established by the Animal Control Department.

(Res. passed 5-20-2008)

CHAPTER 91: NUISANCES

Section

- 91.01 Nuisances generally
- 91.02 Investigation to determine conditions
- 91.03 Notice to abate
- 91.04 Abatement by town; costs; non-payment creates lien

§ 91.01 NUISANCES GENERALLY.

The existence of any of the following conditions on any vacant lot or other parcel of land within the town limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

(A) The uncontrolled growth of noxious weeds or grass to a height in excess of 24 inches causing or threatening to cause a hazard detrimental to the public health or safety;

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

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

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

(Ord. passed 12-13-1983) Penalty, see § 10.99

§ 91.02 INVESTIGATION TO DETERMINE CONDITIONS.

The Town Board, upon notice from any person of the existence of any of the conditions described in § 91.01, shall cause to be made by the appropriate County Health Department official or town official an investigation as may be necessary to determine whether, in fact, conditions exist, which constitute a public nuisance as declared in § 91.01.

(Ord. passed 12-13-1983)

§ 91.03 NOTICE TO ABATE.

Upon determining that conditions enumerated in § 91.01 exist, the Town Board shall notify, in writing, the owner, occupant or person in possession of the premises in question of the conditions constituting the public nuisance and shall order the prompt abatement thereof within ten days from the receipt of the written notice.

(Ord. passed 12-13-1983)

§ 91.04 ABATEMENT BY TOWN; COSTS; NON-PAYMENT CREATES LIEN.

(A) If any person, having been ordered to abate a public nuisance, as authorized in this section, fails, neglects or refuses to abate or remove the condition constituting a nuisance within ten days from receipt of the order, the Town Board shall cause the condition to be removed or otherwise remedied by having employees of the town to go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the Board. Any person who has been ordered to abate a public nuisance may, within the time allowed after receipt of the abatement notice, request the town, in writing, to remove the condition, the cost of which shall be paid by the person making the request.

(B) The actual cost incurred by the town in removing or otherwise remedying a public nuisance, plus an administrative cost of 25%, shall be charged to the owner of the lot or parcel of land, and it shall be the duty of the Tax Collector to mail a statement of the charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from the receipt thereof.

(C) In the event the charges for the removal or abatement of the public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in division (B) above, the charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

(Ord. passed 12-13-1983)

CHAPTER 92: PARADES AND DEMONSTRATIONS

Section

General Provisions

- 92.01 Definitions
- 92.02 Exceptions
- 92.03 Unlawful to interfere
- 92.04 Participation of minors
- 92.05 Heavily traveled areas
- 92.06 Vendors

Permits

- 92.20 Required
- 92.21 Authority to issue; application
- 92.22 Contents
- 92.23 Refusal of Town Board to issue
- 92.24 Appeals from refusal to issue
- 92.25 Revocation

GENERAL PROVISIONS

§ 92.01 DEFINITIONS.

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

GROUP DEMONSTRATION. Any assembly together or in concert of action between two or more persons for the purpose of protesting any matter or making known any position or thought of the group or of attracting attention to the demonstration.

PARADE. Any parade, march, ceremony, show, exhibition or procession of any kind in or upon the public streets, sidewalks, parks or other public places.

PICKET LINE. Any group of persons formed together for the purpose of making known any position or promotion of the persons or on behalf of any organization.
(Ord. passed 10-10-1989)

§ 92.02 EXCEPTIONS.

This chapter shall not apply to:

(A) Funeral processions;

(B) Students going to and from school classes or participating in educational activities where the activity is under the immediate supervision and direction of proper school authorities; or

(C) A governmental agency acting within the scope of its functions.

(Ord. passed 10-10-1989)

§ 92.03 UNLAWFUL TO INTERFERE.

No person shall hamper, obstruct, impede or interfere with any parade or demonstration or any person participating therein and the police force is authorized to establish lines for separation of the general public from the activity. It shall be unlawful to violate the provisions of this section or to cross the lines.

(Ord. passed 10-10-1989) Penalty, see § 10.99

§ 92.04 PARTICIPATION OF MINORS.

In any parade, picket line or group demonstration, it shall be unlawful:

(A) For any minor below the age of 18 years to participate or be allowed to participate, unless the participation is authorized by the permit; and any person encouraging, leading or allowing a minor to so participate, unless a permit therefor has been issued, shall be guilty of a violation of this section;

(B) For any person to lead, guide, participate in or, in any way, support to encourage a parade, picket line or group demonstration when a minor below the age of 18 years is participating therein, unless a permit for participation by the minor has been issued;

(C) For any parent to knowingly permit any minor child of the parent under 18 years of age to participate in a parade, picket line or group demonstration, unless a permit for participation by the minor has been issued; and/or

(D) To cause, participate in, lead or encourage the deviation of any parade, picket line or group demonstration in any manner from the authority specified in the permit.
(Ord. passed 10-10-1989) Penalty, see § 10.99

§ 92.05 HEAVILY TRAVELED AREAS.

Any picket line or group demonstration that takes place in any area subject to normally heavy pedestrian or vehicular traffic may be limited in the permit issued to a concentration of not more than six persons participating within any designated area of the street or sidewalk; provided that, the officer issuing the permit may specify a larger number in the designated area when, in his or her judgment, conditions permit a higher concentration. A *DESIGNATED AREA* is defined as the entire width of the street or sidewalk within a distance measured along its length of 100 feet.
(Ord. passed 10-10-1989) Penalty, see § 10.99

§ 92.06 VENDORS.

No person, firm, corporation or other agency shall vend, peddle or otherwise offer for sale any article of merchandise on any public street or sidewalk within the town located along any parade route or within two blocks of the parade route during the time any parade is in progress or within two hours of the start of the parade or within two hours of the end of the parade.
(Ord. passed 10-10-1989) Penalty, see § 10.99

PERMITS

§ 92.20 REQUIRED.

No parade, picket line or group demonstration shall be permitted on the sidewalks or streets of the town unless a permit therefor has been issued by the town; provided that, nothing in this subchapter shall be construed to prevent the peaceful assembly of any group for orderly expression or communication between those assembled.
(Ord. passed 10-10-1989) Penalty, see § 10.99

§ 92.21 AUTHORITY TO ISSUE; APPLICATION.

The Town Board shall have the authority to issue permits as required in this subchapter and, in the issuance thereof, shall require a written application to be filed 24 hours in advance of the parade, picket line or group demonstration on a form prescribed by the town office that shall require the application

to be signed by the person filing the application. The applicant shall therein state the proposed place, time, purposes and size of the proposed parade, picket line or group demonstration, and whether any minors below the age of 18 years will participate.

(Ord. passed 10-10-1989)

§ 92.22 CONTENTS.

(A) *Participation of minors.* The Town Board shall determine and specify in the permit required by this subchapter whether minors below the age of 18 years will be permitted to participate in the parade, picket line or group demonstration. The Board shall base its determination upon whether the purpose, time or place of the participation will be detrimental to or endanger the health, welfare or safety of the minors.

(B) *Parade route, time and the like.* The permit may set the starting time and duration of the parade, demonstration or picket line and may set the speed of its travel, the space between persons or vehicles, the portions or areas of the streets and sidewalks to be used, the length of the parade, group or line and other requirements as the Town Board may include in the permit for the control of free movement of traffic upon the streets and sidewalks, or for the health, safety and property rights of the participants and general public. Failure to comply with the requirements set forth in the permit shall be unlawful.

(C) *Person in charge.* The applicant for a permit shall specify and the permit shall designate the person in charge of the parade, group demonstration or picket line; and the person in charge shall accompany the parade, demonstration or picket line and shall carry the permit with him or her at that time.

(Ord. passed 10-10-1989) Penalty, see § 10.99

§ 92.23 REFUSAL OF TOWN BOARD TO ISSUE.

(A) The Town Board shall refuse to issue a permit under this subchapter when the activity or purpose stated in the application would violate the provisions of this chapter, any other ordinance of the town or any statute of the state, or when the activity or purpose would endanger the public health or safety, or hinder or prevent the orderly movement of pedestrian or vehicular traffic on the sidewalks or streets of the town.

(B) The Town Board, in considering the issuance of a permit, shall, among other considerations provided, consider and find as a requisite for issuance that:

(1) The activity will not require excessive diversion of police from other necessary duties;

(2) The activity will not interfere with the right of property owners in the area to enjoy peaceful occupancy and use of their property; and

(3) The activity can be conducted without unreasonable interference with normal vehicular or pedestrian traffic in the area, will not prevent normal police or fire protection to the public and will not be likely to cause injury to persons or property, provoke disorderly conduct or create a public disturbance.

(C) No parade, picket line or group demonstration shall be permitted within any public building or structure.

(Ord. passed 10-10-1989)

§ 92.24 APPEALS FROM REFUSAL TO ISSUE.

Any person aggrieved by the denial of a permit under this subchapter shall have a right of appeal to the Town Board, but notice of the appeal must be given within five days after denial. The appeal upon the notice shall be heard by the Town Board within five days.

(Ord. passed 10-10-1989)

§ 92.25 REVOCATION.

Upon violation of the terms of a permit under this subchapter by those participating, the Police Chief or the officer of the police force as may then be in charge is authorized to revoke the permit and direct those participating to disperse.

(Ord. passed 10-10-1989)

CHAPTER 93: FALSE ALARMS

Section

- 93.01 Short title
- 93.02 Purpose
- 93.03 Definitions
- 93.04 Applicability
- 93.05 General regulations
- 93.06 Automatic dialing devices; interconnection to Sheriff and Fire Departments
- 93.07 Alarm responses
- 93.08 Exclusions
- 93.09 Prohibited acts
- 93.10 Miscellaneous

- 93.99 Penalty

Editor's note:

This chapter is based on the Sampson County false alarms ordinance. These regulations were adopted by the county at regular meeting held 5-21-2001. The town adopted the county's provisions by resolution on 5-21-2002.

§ 93.01 SHORT TITLE.

This chapter shall be known and may be cited and referred to as "The Sampson County Alarm Systems Regulations".
(Res. passed 5-21-2002)

§ 93.02 PURPOSE.

(A) The purpose of this chapter is to establish regulations governing alarm systems requiring response thereto by or through the county E-911 communications center.

(B) The terms of this chapter shall, in no way, prohibit alarm companies from providing service by private source to other offices within the geographical boundaries of the county.
(Res. passed 5-21-2002)

§ 93.03 DEFINITIONS.

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

ALARM. The activation of an alarm system signal that produces either an audible sound that can be heard from the interior or exterior of the building causing the alarm system, or the emission of a signal to a direct monitoring service which in turn notifies the communications center that the alarm has been activated.

ALARM BUSINESS. The business by any individual, partnership, corporation or other legal entity of servicing, repairing, altering, replacing, moving or installing any alarm system, or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility, and shall not include any other activity of the business.

ALARM INSTALLATION. Any alarm device or combination of devices installed for one or more buildings.

ALARM RESPONSE. The dispatch or response of Fire or Sheriff's Department personnel as the result of an alarm.

ALARM SYSTEM. Any electronic or mechanical device which emits any signal (electronic, visible, audible, silent, recorded or otherwise) which is designed, intended or used to detect fire, or an unauthorized entry into a building, structure or premises, to signal a fire or attempted robbery or hold up, or to alert others of a fire or the commission of an unlawful act in or around a building, structure or premises.

ALARM USER. Any person, corporation, partnership, proprietorship, governmental or educational entity owning or leasing an alarm system, or on whose premises an alarm system is maintained for the protection of the premises.

AUTOMATIC DIALING DEVICE. Any type of device which automatically sends signals over regular telephone lines as opposed to dedicated alarm lines.

COMMUNICATION CENTER. The county central dispatch, known as the **SAMPSON COUNTY E-911 COMMUNICATIONS CENTER.**

COUNTY. Sampson County, North Carolina, a political subdivision of the state.

DEDICATED ALARM LINE. A special leased telephone line circuit maintained for the sole purpose of transmitting alarm signals.

DIGITAL ALARM. An alarm system which automatically sends signals over regular telephone lines connecting to a digital receiving console, as opposed to a telephone handset.

DIRECT CONNECTING ALARM. An alarm utilizing dedicated alarm lines to connect to a remote receiving console.

FALSE ALARM. An electrical signal communicated to the communications center indicating that an unlawful entry or other crime is being committed or attempted or indicating the detection of a fire, whether to signal a fire or to alert others of a fire in or around a building, structure or premises when it is subsequently determined, after response to the alarm, that no unlawful entry, crime or fire was either committed or in existence and that the alarm was activated in error due to the subscriber's negligence or equipment malfunction. The alarm shall be considered a ***FALSE ALARM*** if it could have been prevented by the ordinary care of a competent subscriber or alarm business operator. An alarm transmitted during testing procedures approved in advance by the communications center shall not be deemed a ***FALSE ALARM***.

LOCAL ALARM. An alarm or device which produces a signal not connecting, in any way, to any alarm monitoring centers, such as store or home burglar alarms actuating bell devices.

OFFICER. Either a sworn law enforcement officer or a member of any County Fire Department.

TAPE DIALER ALARM. An alarm system which automatically sends a signal over regular telephone lines and plays a pre-recorded message.

(Res. passed 5-21-2002)

§ 93.04 APPLICABILITY.

The provisions of this chapter shall apply to all unincorporated portions of the county and to those incorporated municipalities which have entered into an agreement with the county for communications center to dispatch personnel to respond to alarms within that municipality pursuant to G.S. § 153A-122.

(Res. passed 5-21-2002)

§ 93.05 GENERAL REGULATIONS.

(A) The alarm user shall be responsible for knowing the contents of this chapter.

(B) Alarm systems may be connected directly to a private alarm control center or may be a local alarm.

(C) All automatic dialing devices shall conform with § 93.06.

(D) Local alarms shall be of a type that sounds for no more than 15 minutes.

(E) Any alarm existing as of the effective date of this chapter shall also be governed by the regulations of this chapter.

(F) Each local alarm user shall furnish to the communications center the names and telephone numbers of at least three persons authorized and able to deactivate the alarm system. Should this requirement represent an undue burden upon the alarm user, an exception thereto may be requested from the County Emergency Director who shall have the authority to allow less than three persons authorized and able to deactivate the alarm system, but any exception shall be written in duplicate originals with one retained by the Director and one by the alarm user.

(G) After the effective date of this chapter, it shall be unlawful to connect a local alarm without notifying the communications center of the name(s) and telephone number(s) of persons (singular or plural) authorized and able to deactivate the alarm system. Any changes in the name(s) or telephone number(s) of those persons (singular or plural) authorized and able to deactivate the alarm system must be communicated to the communications center immediately.

(H) Burglar alarm systems installed within those geographical areas covered by this chapter shall be equipped with an automatic bell time cut-off module to prevent continuous alarm sounding when the user is unavailable to manually silence the alarm. System or test devices which give a delay of ten seconds or longer prior to alarm system activation in order to warn the user of an open alarm circuit are highly recommended for all burglar systems in order to prevent false alarms.

(I) Alarm systems installed after the effective date of this chapter will be required to have reset capabilities and to reset within 15 minutes. An alarm system cut-off shall be installed to override all malfunctioning alarms. Users whose alarm systems were installed prior to the effective date of this chapter shall have one year from the effective date of this chapter to convert their systems to the extent necessary for compliance with the provisions of this chapter.

(Res. passed 5-21-2002) Penalty, see § 93.99

§ 93.06 AUTOMATIC DIALING DEVICES; INTERCONNECTION TO SHERIFF AND FIRE DEPARTMENTS.

(A) No automatic dialing device shall be interconnected to any telephone numbers of the County Sheriff's Department, to any County Fire Department or communications centers, or either of them, after the effective date of this chapter.

(B) Within six months of the effective date of this chapter, all automatic dialing devices interconnected to any telephone numbers of the County Sheriff's Department, any County Fire Department or the communication centers for either shall be disconnected. The user of each device shall be responsible for having the device disconnected upon notification by the County Sheriff's Department or any anticipated responder fire department.

(C) Each separate violation of this section shall be deemed a separate punishable offense under § 93.99.

(Res. passed 5-21-2002) Penalty, see § 93.99

§ 93.07 ALARM RESPONSES.

(A) (1) The County Sheriff's Department will provide a maximum of three free burglar alarm responses and the County Fire Departments will also provide a maximum of three free fire alarm responses to any alarm user within any calendar year.

(2) Thereafter, a user fee, as approved by resolution of the County Board of Commissioners, shall be charged for any alarm response in excess of the three burglar alarm responses and three fire alarm responses.

(B) The alarm user or that user's representative shall reset an alarm system when notified by a responder that the alarm has activated. When an alarm sounds continuously for a period of 60 minutes from the time responders react to the alarm, due to the failure of the alarm user or that user's representative to reset the alarm, every subsequent 60-minute period or portion thereof that the alarm continues to sound shall be deemed a separate alarm. The alarm user shall pay, in addition to any other fees imposed under this chapter, the county a flat rate fee established pursuant to a resolution passed by the County Board of Commissioners in its original form, or as amended from time to time. The user shall, additionally, pay for the benefit of the primary responder fire department a monetary sum established by resolution of the County Board of Commissioners, as originally passed or amended from time to time.

(C) For purposes of this chapter, *CALENDAR YEAR* shall mean January 1 through December 31. (Res. passed 5-21-2002)

§ 93.08 EXCLUSIONS.

(A) (1) For the purpose of computing the number of alarm responses in § 93.07, an alarm shall not include an alarm which is:

(a) Determined to have been activated by adverse weather conditions as reported by the County Emergency Services Director or as reported by the National Weather Service;

(b) Activated by an electrical power outage to the electric meter on the building housing the activated alarm system; provided that, the alarm user shall provide proof of the electrical outage within five business days of the alarm response; or

(c) An alarm where there is physical evidence of a fire, unauthorized entry, robbery or other crime having been committed at the premises where the alarm was activated.

(2) Any determination by an alarm responder that an alarm activation was not one of the exclusions herein may be appealed to the County Manger within 72 hours. The decision of the County Manager shall be final.

(B) A local alarm activated during alarm system testing procedures shall not be considered an alarm for the purpose of computing alarm responses, if the alarm user first notifies the county E-911 communications center of the alarm testing.
(Res. passed 5-21-2002)

§ 93.09 PROHIBITED ACTS.

(A) It shall be unlawful for any person to activate an alarm for the purpose of summoning either Sheriff's Department or Fire Department assistance when no fire, burglary, robbery or other crime dangerous to life, is being committed or attempted on the premises or otherwise to cause an alarm response where there is no valid basis for causing the same.

(B) It shall be unlawful for an alarm user to fail to reimburse the county, in accordance with § 93.07(B), for alarm response(s) through the county E-911 communication center.
(Res. passed 5-21-2002) Penalty, see § 93.99

§ 93.10 MISCELLANEOUS.

(A) The alarm user, upon being notified that the alarm system has been experiencing an excessive number of false alarms or has in some way become defective, shall have the alarm system inspected and repaired by a qualified individual or company so as to correct any malfunction, restore the system to proper function, and shall, thereafter, notify the county E-911 communication center when the necessary repairs have been completed.

(B) The alarm user, or the user's representative shall respond to an alarm call when there is evidence of an illegal entry or some other alarm indication and, when possible, assist law enforcement personnel in the performance of their duties. The assistance to be provided only upon request from responding law enforcement personnel.
(Res. passed 5-21-2002) Penalty, see § 93.99

§ 93.99 PENALTY.

(A) Violations of § 93.09 shall be misdemeanors, punishable by a fine in an amount as set out in the fee schedule on file in the Town Clerk's office, or imprisonment for not more than 30 days.

(B) All other violations of this chapter, including failure to pay the fees imposed herein within 14 days next following notice that the fees are due, shall subject the offender to a civil penalty in the nature of a debt. The civil penalties may be recovered by the county in a civil action in the nature of a debt, pursuant to G.S. § 160A-175(c).

(C) Effective on the date of this chapter, all alarm users shall begin with a zero number of responses for purposes of § 93.07(A).
(Res. passed 5-21-2002)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. LICENSE TAXES

CHAPTER 110: LICENSE TAXES

Section

- 110.01 Definitions
- 110.02 License tax levied
- 110.03 Tax Collector; duties
- 110.04 License; due date
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- 110.14 Unlawful to conduct business without license
- 110.15 Collection of unpaid tax
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- 110.99 Penalty

§ 110.01 DEFINITIONS.

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

BUSINESS. Any trade, occupation, profession, business, franchise or calling of any kind, subject by the provisions of this chapter to a license tax.

ENGAGED (OR ENGAGING) IN BUSINESS WITHIN TOWN. When he or she engages in business activity of any type, either as owner or operator of the business:

- (1) By maintaining a business location within the town;

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- (2) By soliciting business within the town; or
- (3) By picking up or delivering merchandise or performing services within the town.

PERSON. Any individual, trustee, executor, other fiduciary, corporation, association, partnership, company, firm or other legal entity or agent thereof.

SEASONAL IN NATURE. When a business is taxed by this chapter on an annual basis, but is operated within the town for less than six months of the year.
(Ord. passed 6-11-1985)

§ 110.02 LICENSE TAX LEVIED.

A license tax is hereby levied on the privilege of engaging in every business within the city, which is listed in the schedule of taxes contained in § 110.16. Any person so engaged in business shall be responsible for making certain that the applicable license tax is paid.
(Ord. passed 6-11-1985)

§ 110.03 TAX COLLECTOR; DUTIES.

(A) The Town Tax Collector is hereby designated as the proper town official to collect license taxes and to issue privilege licenses.

(B) The Tax Collector shall make any investigation necessary to determine the tax liability of persons engaged in business within the town. If necessary, the Tax Collector is authorized to enter upon the premises of any business during normal business hours for the purpose of determining whether this chapter has been complied with.
(Ord. passed 6-11-1985)

§ 110.04 LICENSE; DUE DATE.

(A) Unless otherwise provided in the schedule of taxes in § 110.16, each privilege license issued shall cover the 12-month period beginning July 1 of each calendar year and ending June 30 of the subsequent calendar year.

(B) The privilege license tax is due on July 1 of each year. If, however, a person begins a business after July 1, the tax for that year must be paid before the business is begun. (Note: State law authorizes the use of an alternate privilege license tax year, June 1 to May 31. If a municipality so desires, this license year can be substituted for the normal fiscal year used in division (A) above.)
(Ord. passed 6-11-1985)

§ 110.05 APPLICATION; FALSE STATEMENTS.

Every person desiring to obtain a license for the privilege of engaging in a business within the town shall make application therefor in writing to the Tax Collector. The application, to be made on a form provided by the Tax Collector, shall contain the following information:

(A) Name and nature of the business for which the license is sought;

(B) The address where the business is conducted and a mailing address for the business, if different;

(C) The name and address of the person filling out the application and his or her relationship to the business;

(D) The gross receipts of the business for the most recently completed tax year, if applicable; and

(E) Any other information which the Tax Collector determines to be necessary.

(Ord. passed 6-11-1985) Penalty, see § 110.99

§ 110.06 PRORATION OF TAX; SEASONAL BUSINESSES.

Except when a tax is based on gross receipts, if a business is begun after January 31, but before July 1, the tax shall be one-half of the amount otherwise due. Except when a tax is based on gross receipts, a person engaged in a business which is seasonal in nature is liable for one-half of the amount of tax otherwise due.

(Ord. passed 6-11-1985)

§ 110.07 MULTIPLE BUSINESSES.

If a person is engaged in more than one business made subject to a license tax under this chapter, the person shall pay the license tax prescribed in the tax schedule in § 110.16 for each business, even if the businesses are conducted at the same business location.

(Ord. passed 6-11-1985)

§ 110.08 SEPARATE PLACES OF BUSINESS.

(A) Unless otherwise provided by state law or by the tax schedule in § 110.16, if a person engages in a business in two or more separate places, a separate license tax shall be required for each place of business.

(B) For purposes of this section, if a person engages in the same business at two or more locations within the town, the person is liable for only one license tax, which locations:

- (1) Are contiguous;
- (2) Communicate with and open directly into each other; and
- (3) Are operated as a unit.

(Ord. passed 6-11-1985)

§ 110.09 DISPLAY OF LICENSE.

Each person issued a license under this chapter shall post the license in a conspicuous place in his or her regular place of business. If there is no regular place of business, the license shall be kept where it may be inspected at appropriate times by the Town Tax Collector. If a machine or other item of personal property is licensed, the license shall be affixed to the machine or item.

(Ord. passed 6-11-1985)

§ 110.10 CHANGE IN PLACE OF BUSINESS.

If a person who has obtained a license for a business taxed under this chapter desires to move from one business location to another with the town, the license which has been issued shall be valid for the remainder of the license year at this new location, and no additional tax need be paid. Within a reasonable time after the change in location, however, the person shall inform the Tax Collector of the change in address.

(Ord. passed 6-11-1985)

§ 110.11 NO ABATEMENT OF TAX.

If a licensee discontinues a business before the end of the period for the which the license issued, the license tax shall not be abated, nor shall a refund of any part of the license tax be made.

(Ord. passed 6-11-1985)

§ 110.12 EFFECT OF LICENSE.

The issuance of a license under this chapter does not authorize the carrying on of a business for which additional licenses or qualifications are required by state or local law, nor does the issuance of a license prevent the town from enacting additional regulations applicable to the licensee.

(Ord. passed 6-11-1985)

§ 110.13 EXEMPTIONS.

(A) Any person who engages in business within the town for religious, educational or charitable purposes shall be exempt from paying any privilege license tax levied by this chapter.

(B) Any blind person engaging in business within the town shall be exempt from paying any privilege license tax levied by this chapter, to the extent provided by G.S. § 105-249.

(C) Any person serving in any branch of the armed forces of the United States or in the merchant marine, and desiring to engage in business within the town, shall be exempt from paying any privilege license tax levied by this chapter during the period of the service, to the extent provided by G.S. § 105-249.1.

(Ord. passed 6-11-1985)

§ 110.14 UNLAWFUL TO CONDUCT BUSINESS WITHOUT LICENSE.

(A) It shall be unlawful for any person to engage in a business within the town upon which a privilege license tax is imposed by this chapter, without having paid the license tax specified in § 110.16.

(B) The town may seek an injunction against any person engaging in business in violation of this section.

(C) A conviction under this section does not relieve a person of his or her liability for the license tax or taxes imposed by this chapter.

(Ord. passed 6-11-1985) Penalty, see § 110.99

§ 110.15 COLLECTION OF UNPAID TAX.

(A) If a person begins or continues to engage in a business taxed under this chapter without payment of the required privilege license tax, the Tax Collector may use either of the following methods to collect the unpaid tax:

(1) The remedy of levy and sale or attachment and garnishment, in accordance with G.S. § 160A-207; or

(2) The remedy of levy and sale of real and personal property of the taxpayer in accordance with G.S. § 105-109(d).

(B) Any person who begins or continues to engage in a business taxed under this chapter without payment of the tax is liable for an additional tax of 5% of the original tax due for each 30 days or portion thereof that the tax is delinquent.

(Ord. passed 6-11-1985)

§ 110.16 SCHEDULE OF LICENSE TAXES.

The schedule of license taxes is adopted by reference and hereby incorporated herein as if set out in full. A copy of the schedule is on file in the Town Clerk's office.
(Ord. passed 6-11-1985; Ord. passed 6-14-1988)

§ 110.99 PENALTY.

(A) Any person who willfully makes a false statement on a license application, as per § 110.05, shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount as set out in the fee schedule on file in the Town Clerk's office or imprisoned for not less than 30 days.

(B) Violators of § 110.14 shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount as set out in the fee schedule on file in the Town Clerk's office or imprisoned for not more than 30 days. Each day that a person engages in business in violation of this section constitutes a separate offense.

(Ord. passed 6-11-1985)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

131. CURFEW

CHAPTER 130: GENERAL OFFENSES

Section

- 130.01 Skateboarding prohibited
- 130.02 Pellet and BB guns prohibited
- 130.03 Firearms; discharge prohibited
- 130.04 Beer and wine consumption

130.99 Penalty

§ 130.01 SKATEBOARDING PROHIBITED.

(A) For the well-being and safety of the town, the Town Board of Commissioners declare that no skateboarding be conducted on any town street, park facility, state road or other public area in the town.

(B) It shall be unlawful for any person, firm or corporation to operate a skateboard upon any town street, park facility, state road or other public area in the town.

(Ord. passed 4-20-2004) Penalty, see § 130.99

§ 130.02 PELLETT AND BB GUNS PROHIBITED.

(A) This section shall be effective within the corporate limits of the town and all lands owned or leased by the town outside the corporate limits.

(B) It shall be unlawful for any person under the age of 18 years to sell, possess, use or discharge any pellet gun, BB gun or any other mechanism or device designed or used to project a missile by compressed air or mechanical action, from, into or upon the lands set out in division (A) above.

(C) It shall be unlawful for any person of whatever age to discharge any pellet gun, BB gun or any other mechanism or device designed or used to project a missile by compressed air or mechanical action, from, into or upon the lands set out in division (A) above.

(D) Any pellet gun or any other mechanism or device designed or used to project a missile by compressed air or mechanical action, being unlawfully used, possessed or discharged, is hereby declared contraband and subject to immediate seizure by any law enforcement officer.

(Ord. passed 1-1-1994) Penalty, see § 130.99

§ 130.03 FIREARMS; DISCHARGE PROHIBITED.

(A) It shall be unlawful for any person, irrespective of age, to fire or discharge any firearm within the town limits unless the firearm is discharged in the defense of person or property or pursuant to lawful directions of law enforcement officers.

(B) An amendment to this section permits a person to discharge a firearm on special events or burial occasions.

(Ord. passed 12-8-1981) Penalty, see § 130.99

Statutory reference:

Authority of city to regulate firearms, see G.S. § 160A-189

§ 130.04 BEER AND WINE CONSUMPTION.

No person shall consume or serve malt beverages or unfortified wine, as defined by G.S. § 18A-2, in the public streets, boulevards, alleys, parks, sidewalks or public buildings within the town.

(Ord. passed 8-5-1975) Penalty, see § 130.99

§ 130.99 PENALTY.

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

(B) Any person, firm or corporation who violates any of the provisions of § 130.01 shall be guilty of a class 3 misdemeanor and shall be fined in an amount as set out in the fee schedule on file in the Town Clerk's office or imprisoned not more than 30 days, or both.

(C) The violation of § 130.02 shall constitute a misdemeanor punishable, upon conviction, by a fine in an amount as set out in the fee schedule on file in the Town Clerk's office, plus the cost of court, or imprisoned not more than 30 days.

(D) Violation of § 130.04 shall be a misdemeanor punishable, on conviction, by a fine in an amount as set out in the fee schedule on file in the Town Clerk's office or by imprisonment not exceeding 30 days.

(Ord. passed 8-5-1975; Ord. passed 1-1-1994; Ord. passed 4-20-2004)

CHAPTER 131: CURFEW

Section

- 131.01 Purpose
- 131.02 Definitions
- 131.03 Offenses
- 131.04 Exceptions
- 131.05 Defense
- 131.06 Method of enforcement

- 131.99 Penalty

§ 131.01 PURPOSE.

The purpose of this chapter shall be to establish a curfew for youth within the town to promote the health, safety and welfare of both youth and adults in the town.
(Ord. passed 10-21-2003)

§ 131.02 DEFINITIONS.

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

DIRECT ROUTE. The shortest reasonable path of travel or a commonly used route to reach a final destination without any detour or stop along the way.

EMERGENCY. An unforeseen combination of circumstances of the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or death. This term also shall include any action that is reasonably necessary in order to respond to the medical needs of a family member or a person under 18 regardless of whether the young person's action is taken in order to prevent death or serious bodily injury.

ESTABLISHMENT. Any privately owned place of business operated for profit to which the public has access or is invited, including, but not limited to, any place of amusement or entertainment.

GUARDIAN. A person who is court-appointed to be the guardian of a person under 18 or another adult as may be head of the household in which the youth dwells.

OWNER/OPERATOR. Any individual, firm, association, partnership or corporation, operating, managing or conducting any establishment, including the employees, members of partners of any association or partnership and the officers of a corporation.

PARENT. A person who is a natural parent, adoptive parent, foster parent or step-parent of another person, or a person to whom legal custody has been given by court order; or other person who is acting in loco parentis.

PUBLIC PLACE. Any place that is generally open to and used by the public or a substantial group of the public, whether it be publicly or privately owned, including, but not limited to, streets, sidewalks, highways, alleys, rights-of-way, public vehicular areas and parking lots, transportation facilities, theaters, restaurants, shops, bowling alleys, schools and school grounds, places of business and amusement, playgrounds, parks, similar areas that are open to the public and other common areas open to or accessible to the public.

REMAIN. To linger or stay in a public place, or to fail to leave the premises when requested to do so by a police officer, or to fail to leave the premises of an establishment when requested to do so by the owner/operator or employee of the premises.

RESTRICTED HOURS. The time of night referred to herein is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Savings Time, generally observed at that hour by the public in the county.

YOUTH. A person who is under the age of 16 years.
(Ord. passed 10-21-2003)

§ 131.03 OFFENSES.

A curfew applicable to youth is established and shall be enforced as follows.

(A) It is unlawful for any youth under the age of 16 years to be or remain upon any public place in the town between the hours of 10:00 p.m. at night and 6:00 a.m. of the following day.

(B) It is unlawful for any youth under 16 years who has been suspended from school or has failed to attend school for any reason during regular school hours, who is not in the company of a parent or guardian, to be or remain upon any establishment or public place in the town between the hours of 7:30 a.m. and 3:30 p.m. on any school day.

(C) A parent or guardian of youth commits an offense if he or she knowingly permits or, by insufficient control, allows the youth to remain in any public place or on the premises of any

establishment within the town during the restricted hours. The term *KNOWINGLY* includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a youth in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of the youth.

(D) The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a youth to remain upon the premises of the establishment during the restricted hours. The term *KNOWINGLY* includes knowledge that an operator or employee should reasonably be expected to have concerning the patrons of an establishment. The standard for "knowingly" shall be applied through an objective test whether a reasonable person in the operator's or employee's position should have known that the patron was a youth in violation of this chapter.

(E) It shall be a violation of this chapter for any person 16 years of age or older to aid or abet a youth in the violation of this chapter.

(F) It shall be a violation of this chapter for a parent or guardian to refuse to take custody during the restricted hours of a youth for whom the parent or guardian is responsible.
(Ord. passed 10-21-2003) Penalty, see § 131.99

§ 131.04 EXCEPTIONS.

A youth under 16 years of age who is in a public place or establishment during the restricted hours shall not be in violation of this chapter if:

(A) Accompanied by his or her parent or guardian;

(B) Accompanied by an adult 18 years of age or older authorized by the parent or guardian of the youth to take the parent's or guardian's place in accompanying the youth for a designated period of time and purpose within an area specified by the youth's parents or guardian;

(C) On the property of his or her parents or guardian;

(D) In a motor vehicle with parental consent;

(E) Traveling in a motor vehicle with a parent or guardian or traveling in a motor vehicle with an adult 18 years of age or older authorized by the parent or guardian of the youth to take the parent or guardian's place in accompanying the youth for a designated period of time and purpose within an area specified by the youth's parent or guardian;

(F) Engaged in a lawful employment activity or using a direct route to or from a place of employment;

(G) Reacting or responding to an emergency;

(H) Attending or traveling to or from, by direct route an official school, religious or recreational activity that is supervised by adults and sponsored by a public or private school, the town or other governmental entity, a civic organization or another similar entity that accepts responsibility for the youth;

(I) Exercising First Amendments rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly;

(J) Married or emancipated;

(K) In possession of a "special permit":

(1) When necessary nighttime activities of a youth may be inadequately provided for by other provisions of this chapter, application may be made in writing to the Chief of Police, or his or her designee, or the Town Clerk or his or her designee, either for a regulation as provided herein or for a "special permit" as the circumstances warrant. The application shall be in writing, signed by the youth and by a parent of the youth if feasible stating:

(a) The name, age and address of the youth and the telephone number of a parent;

(b) The height, weight, sex, color of eyes and hair and other physical characteristics of the youth;

(c) The necessity that requires the youth to remain upon a public place during the restricted hours;

(d) The public place; and

(e) The beginning and ending of the period of time involved by date and hour.

(2) Upon receipt of the application, the Chief of Police, his or her designee, the Town Clerk or his or her designee may issue a written permit for the youth's use of the public place as the hours as, in the opinion of the Chief of Police or the Town Clerk, may be reasonable, necessary and consistent with the purpose of the chapter.

(L) When authorized by regulation issued by the Chief of Police or his or her designee, establish special permit exceptions to be handled as set forth in division (K) above. Normally, the regulation by the Chief of Police, his or her designee, the Town Clerk or his or her designee permitting use of public places should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies such as the schools. It shall define the activity, the scope of the use of the public

places permit, the period of time involved not to extend more than one hour beyond the time for termination of the activity and the reason.

(Ord. passed 10-21-2003)

§ 131.05 DEFENSE.

It is a defense to prosecution under § 131.03(C) that the owner, operator or employee of an establishment promptly notified law enforcement officers that a youth was present on the premises of the establishment during the restricted hours and refused to leave.

(Ord. passed 10-21-2003)

§ 131.06 METHOD OF ENFORCEMENT.

(A) (1) Before taking any enforcement action under this chapter, a law enforcement officer shall ask the apparent offender's age and reason for being in the public place or establishment during restricted hours.

(2) The law enforcement officer shall not prepare a juvenile arrest report, issue a citation or make an arrest under this chapter unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception or defense in §§ 131.04 and 131.05 is present.

(B) It shall be the policy of the Town Police Department or other law enforcement officers to issue a uniform citation against any person the officer has probable cause to believe has violated this chapter, whether the offending person is a juvenile or any other person, and not to take the juvenile or other person into custody.

(Ord. passed 10-21-2003)

§ 131.99 PENALTY.

(A) A youth who violates any provision of this chapter is subject to being adjudicated delinquent. The court may, in its discretion, impose any dispositional alternatives that are provided in the State Juvenile Code for any youth who is delinquent.

(B) Any person other than a youth who violates any provision of this chapter shall be guilty of a misdemeanor and shall be subject to a fine in an amount as set out in the fee schedule on file in the Town Clerk's office and imprisonment at the discretion of the court in accordance with G.S. § 14-4.

(Ord. passed 10-21-2003)

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS; CONSTRUCTION

151. FLOOD DAMAGE PREVENTION

CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION

Section

- 150.01 Findings and purpose
- 150.02 Election of Housing Code Officer and Housing Code Inspector; county inspectors' responsibilities
- 150.03 Deputy inspectors
- 150.04 Building permits
- 150.05 Annual inspection of buildings
- 150.06 Record of inspections
- 150.07 Reports of inspectors
- 150.08 Inspection and permit fees
- 150.09 Periodic inspections
- 150.10 Defects in buildings to be corrected
- 150.11 Unsafe buildings condemned
- 150.12 Removing notice from condemned buildings
- 150.13 Action in event of failure to take corrective action
- 150.14 Order to take corrective action
- 150.15 Appeal
- 150.16 Failure to comply with order
- 150.17 Equitable enforcement
- 150.18 Regulatory codes adopted
- 150.19 Codes on file
- 150.20 Monthly report

§ 150.01 FINDINGS AND PURPOSE.

(A) Pursuant to G.S. §§ 160A-411 et seq., it is hereby found and declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities and to other conditions rendering the dwellings unsafe or unsanitary and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. Ch. 160A, Art. 19, part 6, it is the purpose of this chapter to establish guidelines for fitness for occupancy of all buildings used for human habitation, as expressly authorized by G.S. Ch. 160A et seq. (Ord. passed 9-21-2010)

§ 150.02 ELECTION OF HOUSING CODE OFFICER AND HOUSING CODE INSPECTOR; COUNTY INSPECTORS' RESPONSIBILITIES.

(A) The Board of Commissioners shall appoint some qualified person to perform the duties of inspector or contract with another city, county or combination thereof as prescribed in G.S. Ch. 160A, Art. 19, part 6 to act as same. The person so appointed shall be known as the Housing Code Inspector. The Board of Commissioners shall also select a Housing Code Officer to preside over any necessary hearings or make decisions as set forth herein.

(B) (1) Any county inspector, including the County Fire Marshal, while exercising the duties of an inspector in the municipality, shall be considered a municipal employee.

(2) It shall have the same potential liability, if any, for inspections conducted by a county inspector as it does for any municipal employee.

(3) It will defend, hold harmless and indemnify any county inspector and the county against any and all claims arising out of the county inspector's performing or failing to perform any act related to inspections or enforcement within its jurisdiction.

(4) Its governing board will approve the form of any municipal citations, permits, orders or other enforcement documents to be used by the Fire Marshal within its jurisdiction.

(5) Its governing board hereby appoints the County Fire Marshal as its fire code official.

(6) Any inspector's responsibility shall only be for inspections, notice and conducting an initial appeal hearing under the State Building Code and that, once appeal is made to the municipal governing board, all enforcement responsibility lies with the municipality.

(7) It approves any fee schedule adopted by the Board of Commissioners for inspections.

(8) The Town Board of Commissioners requests that the county perform all inspection responsibilities required by G.S. Ch. 160A, Art. 19, within the planning and zoning jurisdiction of the town, as those limits currently exist or shall hereafter be changed or modified, subject always to those rescission rights reserved by G.S. § 160A-36(g).

(Res. passed 1-19-2010; Ord. passed 9-21-2010)

§ 150.03 DEPUTY INSPECTORS.

All duties imposed by this chapter upon the Housing Code Officers may be performed by a deputy or assistant inspector or in the case of a contract with another town or county to serve in that capacity as set forth in § 150.02, then the duties may be performed by any duly authorized agent of the town or county.

(Ord. passed 9-21-2010)

§ 150.04 BUILDING PERMITS.

(A) *Building permits.* Before a building is begun, the owner of the property shall apply to the inspector for a permit to build. This permit shall be given in writing and shall contain a provision that the building shall be constructed according to the requirements of the building law. As the building progresses, the inspector shall make as many inspections as may be necessary to satisfy him or her that the building is being constructed according to the provisions of the laws. As soon as the building is completed, the owner shall notify the inspector, who shall proceed at once to inspect the building and determine whether or not the flues and the building are properly constructed in accordance with the building law. If the building meets the requirements of the building law, the inspector shall then issue to the owner of the building a certificate which shall state that he or she has complied with the requirements of the building law as to that particular building, giving description and location. The inspector shall keep his or her record so that it will show readily by reference all buildings as are approved. The inspector shall report to the Insurance Commissioner every person neglecting to secure the permit and certificate and also bring the matter before the Mayor or a court of proper jurisdiction for their attention and action.

(B) *Changes in work.* After a permit has been issued, no changes or deviations from the terms of the application, plans and specifications, or the permit, except where changes or deviations are clearly permissible under the State Building Code, shall be made until specific written approval of approved changes or deviations has been obtained from the Housing Code Inspector.

(C) *Inspections of work in progress.* As the work pursuant to a permit progresses, the Housing Code Inspector shall make as many inspections thereof as may be necessary to satisfy him or her that the work is being done according to the provisions of all applicable state and local laws and of the terms of the permit. In exercising this power, the Housing Code Inspector shall have the right to enter on any premises within the jurisdiction of his or her department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials.

(Ord. passed 9-21-2010)

§ 150.05 ANNUAL INSPECTION OF BUILDINGS.

(A) The Housing Code Inspector may make inspections of all buildings as often as it is deemed appropriate by the State Building Code as it may be amended from time to time.

(B) The Housing Code Inspector alone or with the Insurance Commissioner or his or her deputy, to the extent otherwise allowed by law, shall, at all reasonable times, have the right to enter any dwelling, store or other building premises to inspect same without molestation from anyone.

(C) It shall be the duty of the Housing Code Inspector to notify the occupant and owner of all premises of any defects found in this general inspection and see that they are properly corrected.

(Ord. passed 9-21-2010)

§ 150.06 RECORD OF INSPECTIONS.

The Housing Code Inspector shall keep a record of all inspections as required by the State Building Code, as it is amended from time to time.

(Ord. passed 9-21-2010)

§ 150.07 REPORTS OF INSPECTORS.

To the extent required by the Insurance Commissioner and the laws of the state, the Housing Code Inspector shall report before February 15 of each year the number and dates of general inspections during the year ending December 31 upon blanks furnished by the Insurance Commissioner, and furnish other information and make other reports as shall be called for by the Insurance Commissioner.

(Ord. passed 9-21-2010)

§ 150.08 INSPECTION AND PERMIT FEES.

(A) For the inspection of every new building, or old building repaired or altered, the Housing Code Inspector shall charge and collect an inspection and permit fee before issuing the building certificate as prescribed by the County Housing Officer. Fees will be charged in accordance with the prevailing county ordinance.

(B) A mobile home, house trailer or trailer used for storage shall also be considered a building and this chapter shall apply thereto, except the fees and permit shall not be required where same is parked in a mobile home or trailer parking lot or one engaged in the business of operating the lot and the lot is being so used.

(Ord. passed 9-21-2010)

§ 150.09 PERIODIC INSPECTIONS.

(A) The Housing Code Inspector, the Housing Code Officer, Fire Chief and/or Fire Marshal or a designated member of his or her staff may make periodic inspections, subject to the direction of the Board of Commissioners for unsafe, unsanitary or otherwise hazardous and unlawful conditions in structures within its territorial jurisdiction. In addition, he or she shall make inspections when he or she has reason to believe that the conditions may exist in a particular structure.

(B) In exercising this power, the Housing Code Inspector shall have the right to enter on any premises within the jurisdiction of inspections or other enforcement at all reasonable hours for the purposes of inspections or other enforcement action, upon presentation of proper credentials.

(Ord. passed 9-21-2010)

§ 150.10 DEFECTS IN BUILDINGS TO BE CORRECTED.

When the Housing Code Inspector finds any defect in a building, or finds that the building has not been constructed in accordance with the applicable state and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his or her duty to notify the owner or occupant of the building of its defects, hazardous conditions or failure to comply with the laws. The owner of the contents of the building shall immediately remedy the defects, hazardous conditions or violations of the law in the property he or she owns.

(Ord. passed 9-21-2010)

§ 150.11 UNSAFE BUILDINGS CONDEMNED.

Every building which shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress or other causes, shall be held to be unsafe, and the Housing Code Inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building.

(Ord. passed 9-21-2010)

§ 150.12 REMOVING NOTICE FROM CONDEMNED BUILDINGS.

If any person shall remove any notice that has been affixed to any building or structure by a local inspector of any municipality that states the dangerous character of the building or structure, he or she shall be guilty of a misdemeanor.

(Ord. passed 9-21-2010)

§ 150.13 ACTION IN EVENT OF FAILURE TO TAKE CORRECTIVE ACTION.

(A) If the owner of a building or structure that has been condemned as unsafe pursuant to § 150.11, or pursuant to the applicable state laws, shall fail to take prompt corrective action the inspector shall submit a written report to the Town Board of Commissioners and give the owner written notice, by certified or registered mail to his or her last known address or by personal service:

(1) The building or structure is in a condition that appears to constitute a fire or safety hazard or to be dangerous to life, health or other property;

(2) A hearing will be held before the Housing Code Officer at a designated place and time not sooner than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) Following the hearing, the Housing Code Officer may issue orders as are necessary to repair, close, vacate or demolish the building or structure as appears appropriate.

(B) If the name or the whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the city at least once, not later than one week prior to the hearing.

(Ord. passed 9-21-2010)

§ 150.14 ORDER TO TAKE CORRECTIVE ACTION.

If, upon a hearing held pursuant to the notice hereinabove described, the Housing Code Officer shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health or other property, he or she shall make an order in writing, directed to the owner of the building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating or demolishing the building or structure or taking other necessary steps within a period of not less than 60 days as the Housing Code Officer may prescribe.

(Ord. passed 9-21-2010)

§ 150.15 APPEAL.

Any owner who has received an order under the provisions of this chapter may appeal from the order to the Board of Commissioners by giving notice of appeal in writing to the Housing Code Officer and to the Town Clerk within ten days following issuance of the order. In the absence of an appeal, the order of the Housing Code Officer shall be final. If a timely appeal is made, the Town Council shall hear an appeal within a reasonable time and may modify and affirm or revoke the order.

(Ord. passed 9-21-2010)

§ 150.16 FAILURE TO COMPLY WITH ORDER.

If the owner of a building or structure fails to comply with an order issued pursuant to this chapter from which no appeal has been taken, or fails to comply with an order of the City Council following an appeal, he or she shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

(Ord. passed 9-21-2010)

§ 150.17 EQUITABLE ENFORCEMENT.

(A) Whenever any violation is denominated a misdemeanor under the provisions of this chapter, the town, either in addition to or in lieu of other remedies, may initiate any appropriate action or

proceedings to prevent, restrain, correct or abate the violation, or to prevent the occupancy of the building or structure involved.

(B) If the owner of a building or structure fails to comply with an order issued pursuant to this chapter, from which no appeal has been taken, or failed to comply with an order of the Town Council following an order directing that the building or structure be repaired, closed, vacated or demolished as appears appropriate. The Board of Commissioners may then proceed to effectuate the order according to its terms and the costs of the repair, closing, vacating or the demolition of the building, whichever is necessary, shall be chargeable against the owner and become a lien upon the property to be recovered or foreclosed in the manner provided by law for the collection of ad valorem taxes by a municipality. (Ord. passed 9-21-2010)

§ 150.18 REGULATORY CODES ADOPTED.

Pursuant to authority granted by G.S. §§ 143-138 et seq. and G.S. §§ 160A-411 et seq., the codes enumerated in this section governing building regulations and plumbing and electrical installations are hereby adopted as the minimum regulations within the corporate limits for the types of buildings described. All buildings hereafter erected, enlarged, altered, repaired, moved, converted to other uses or demolished, and all plumbing and electrical installations shall comply in all respects with the requirements of the applicable code.

(A) *Building Codes.*

(1) All buildings other than one- and two-family dwellings and temporary buildings or sheds not exceeding 20 feet in length or width and used exclusively for construction purposes, shall be regulated by the State Building Code (current edition), including amendments thereto as may be prepared and published from time to time by the State Building Code Council and approved by the Commissioner of Insurance.

(2) One- and two-family dwellings shall be regulated by the State Uniform Residential Building Code (current edition) and amendments thereto as may be published from time to time by the State Building Code Council.

(B) *Plumbing Code.* Plumbing installations in all buildings shall be regulated by State Building Code, Plumbing (current edition), and amendments thereto as may be prepared and published from time to time by the State Building Code Council and approved by the Commissioner of Insurance. (Ord. passed 9-21-2010)

§ 150.19 CODES ON FILE.

An official, up to date copy of each regulatory code adopted in the preceding section shall be placed and maintained in the office of the Town Clerk. (Ord. passed 9-21-2010)

§ 150.20 MONTHLY REPORT.

The Housing Code Officer shall prepare and submit to the Board of Commissioners a monthly report in any month in which a hearing is held before the Housing Code Officer which contains the details of any hearing held and the results thereof, the names of the property owners and date of inspection and any other information the Housing Code Officer deems appropriate.

(Ord. passed 9-21-2010)

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

General Provisions

- 151.01 Statutory authorization
- 151.02 Findings of fact
- 151.03 Statement of purpose
- 151.04 Objectives
- 151.05 Definitions
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Flood Hazard Reduction

- 151.40 General standards
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- 151.99 Penalty

Cross-reference:

Building Regulations; Construction, see Ch. 150

Statutory reference:

Authority, see G.S. Ch. 143, Art. 21, part 6, and G.S. Ch. 160A, Art. 19, parts 3, 5 and 8

GENERAL PROVISIONS**§ 151.01 STATUTORY AUTHORIZATION.**

The legislature of the state has, in G.S. Ch. 143, Art. 21, part 6, and G.S. Ch. 160A, Art. 19, parts 3, 5 and 8, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the Board of Commissioners of the town does ordain as follows.

(Ord. passed 2-9-1988)

§ 151.02 FINDINGS OF FACT.

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

(B) These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other properties which are inadequately elevated, flood-proofed or otherwise protected from flood damages.

(Ord. passed 2-9-1988)

§ 151.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities which serve the uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural flood plains, stream channels and natural protective barriers, which are involved in the accommodation of flood waters;

(D) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
(Ord. passed 2-9-1988)

§ 151.04 OBJECTIVES.

The objectives of this chapter are:

(A) To protect human life and health;

(B) To minimize the expenditure of public money for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business interruptions;

(E) To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in flood plains;

(F) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in a manner as to minimize future flood blight areas; and

(G) To ensure that potential home buyers are notified that property is in a flood area.
(Ord. passed 2-9-1988)

§ 151.05 DEFINITIONS.

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

ADDITION (TO AN EXISTING BUILDING). Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed **ADDITION** which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

APPEAL. A request from a review of the local administrator's interpretation of any provisions of this chapter or a request for a variance.

AREA OF SPECIAL FLOOD HAZARD. The land in the flood plain within a community subject to a 1% or greater chance of flooding in any given year.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT. The lowest level or story which has its floor subgrade on all sides.

BUILDING. Any structure built for support, shelter or enclosure for any occupancy or storage.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

ELEVATED BUILDING. A non-basement building built to have the lowest floor elevated above the ground level by means of full solid foundation perimeter walls, pilings, columns (posts and piers), shear walls or breakway walls.

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM). The official map issued by the Federal Emergency Management Agency where the areas of special flood hazard have been designated as Zone A.

FLOOD INSURANCE RATE MAP (FIRM). The official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

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

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage

in an area other than a basement area is not considered a building's **LOWEST FLOOR**; provided that, the enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

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

MEAN SEA LEVEL. The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain. For purposes of this chapter, the term is synonymous with **NATIONAL GEODETIC VERTICAL DATUM (NGVD)**.

NATIONAL GEODETIC VERTICAL DATUM (NGVD). As corrected in 1929 is a verticle control used as a reference for establishing varying elevations within the flood plain.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of this chapter.

START OF CONSTRUCTION. (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. Law No. 97-348), being 16 U.S.C. §§ 3501 *et seq.*), includes substantial improvement and means the date the building permit was issued; provided, the actual start of construction, repair, reconstruction or improvement was within 180 days of the permit date. The actual **START** means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns or any work beyond the stage of excavation or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure.

STRUCTURE. A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank or other human-made facilities or infrastructures.

SUBSTANTIAL IMPROVEMENT.

(1) The cost, within any 12-month period, of any repair, reconstruction or improvement of a structure which equals or exceeds 50% of the market value of the structure, either:

- (a) Before the improvement or repair is started; or
- (b) Before the damage occurred if the structure has been damaged and is being restored.

(2) For the purposes of this definition, *SUBSTANTIAL IMPROVEMENT* is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

(a) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code inspections which are solely necessary to assure safe living conditions; or

(b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

(Ord. passed 2-9-1988)

§ 151.06 LANDS TO WHICH CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of town.
(Ord. passed 2-9-1988)

§ 151.07 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Insurance Administration in its Flood Insurance Rate Map (FIRM) #370358, dated 5-22-1981, and any revision thereto are adopted by reference and declared to be a part of this chapter.

(Ord. passed 2-9-1988)

§ 151.08 COMPLIANCE.

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(Ord. passed 2-9-1988)

§ 151.09 ABROGATION AND GREATER RESTRICTIONS.

(A) This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions.

(B) However, where this chapter and another conflict or overlap, whichever imposes the most stringent restrictions shall prevail.
(Ord. passed 2-9-1988)

§ 151.10 INTERPRETATION.

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

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit, nor repeal, any other powers granted under state statutes.
(Ord. passed 2-9-1988)

§ 151.11 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within the areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administration decision lawfully made thereunder.
(Ord. passed 2-9-1988)

ADMINISTRATION

§ 151.25 ESTABLISHMENT OF DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.

(A) A development permit shall be required in conformance with the provisions of this chapter.

(B) Application for a development permit shall be made to the Building Inspector on forms furnished by him or her. The development permit may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures; and the location of fill, storage or materials; drainage facilities. Specifically, the following information is required.

Autryville - Land Usage

(1) Where the base flood elevation data is provided in accordance with § 151.26(A)(10), the application for the development permit within the Zone A on the flood hazard boundary map or flood insurance rate map shall show:

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

(b) If the structure has been floodproofed in accordance with § 151.41(B), the elevation (in relation to mean sea level) to which the structure was floodproofed.

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

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

(C) When a structure is flood-proofed the applicant shall provide a certification by a registered professional engineer or architect that the non-residential flood-proofed structure meets the flood-proofing criteria in § 151.41(B).

(D) (1) The applicant shall provide a flood elevation or flood-proofing certification after the lowest floor is completed.

(2) Within 21 calendar days of establishment of the lowest floor elevation, or flood-proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator a certification of the elevation of the lowest floor or flood-proofed elevation, whichever is applicable, as built, in relation to mean sea level.

(3) The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

(4) When flood-proofing is utilized for a particular building, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

(5) Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The local administrator shall review the floor elevation survey data submitted. Deficiencies detected by the review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make the corrections required hereby shall be cause to issue a stop-work order for the project.

(Ord. passed 2-9-1988)

§ 151.26 DESIGNATION OF LOCAL ADMINISTRATOR.

(A) The Building Inspector is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. Duties of the local administrator shall include, but not be limited to, the following:

(1) Review all development permits to assure that the permit requirements of this chapter have been satisfied;

(2) Review all development permits to determine if proposed development adversely affects the flood-carrying capacity of the flood plain. For purposes of this chapter, *ADVERSELY AFFECTS* means damage to adjacent property because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

(a) If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.

(b) If it is determined there is an adverse effect, then technical justification (i.e., a registered professional engineering analysis) for the proposed development shall be required.

(c) If the proposed development is a building, then the provisions of this chapter shall apply.

(3) Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of the permits be provided and maintained on file with the development permit;

(4) Notify adjacent communities and the State Department of Crime Control and Public Safety; Division of Emergency Management, State Coordinator of the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of the notification to the Federal Emergency Management Agency;

(5) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;

(6) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 151.40;

(7) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with § 151.41(B);

(8) When flood-proofing is utilized for a particular structure obtain certification from a registered professional engineer or architect in accordance with § 151.41(B);

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

(10) When base flood elevation data or floodway data has not been provided in accordance with § 151.07, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of § 151.40(A), in order to administer the provisions of this chapter.

(B) All records pertaining to the provisions of this chapter shall be maintained in the office of the local administrator and shall be open for public inspection.
(Ord. passed 2-9-1988)

§ 151.27 VARIANCE PROCEDURES.

(A) The Board of Adjustment as established by the town shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal the decision to Superior Court, as provided in G.S. Ch. 7A.

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

(D) In passing upon the applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of the damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatability of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

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

(E) Upon consideration of the factors listed above and the purpose of this chapter, the Board of Adjustment may attach conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

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

(G) (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship;

and

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

(3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. The notification shall be maintained with a record of all variance actions.

(4) The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(Ord. passed 2-9-1988)

FLOOD HAZARD REDUCTION**§ 151.40 GENERAL STANDARDS.**

In all areas of special flood hazard, the following provisions are required.

(A) *Anchoring.*

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

(2) All manufactured homes to be placed within Zone A on a community's FHBM or FIRM be installed using methods and practices which minimize flood damage. For the purpose of this requirement, mobile homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(B) *Construction materials and methods.*

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

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

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

(C) *Utilities.*

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(3) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(D) *Subdivision proposals.*

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or five acres.

(E) *Encroachments.* The cumulative effect of any proposed development shall not adversely affect the area of special flood hazard. This determination is to be in accordance with § 151.26(A)(2). (Ord. passed 2-9-1988)

§ 151.41 STANDARDS WHERE BASE FLOOD ELEVATION DATA IS AVAILABLE.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 151.26(A)(10), the following provisions are required.

(A) *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided.

(B) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial or other non-residential structure shall have the lowest floor, including basement, elevated no lower than one foot above the level of the base flood elevation. Structures located in A zones may be flood-proofed in lieu of elevation; provided that, all areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, using structural components have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this division (B) are satisfied. The certification shall be provided to the official as set forth in § 151.26. (Ord. passed 2-9-1988)

§ 151.42 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAYS.

Sites located within the areas of special flood hazard where small streams exist, but where no base flood data has been provided or where no floodways have been identified. The following provisions shall apply within the areas.

(A) No encroachments, including fill, new construction, substantial improvements or new developments shall be permitted within a distance of stream bank equal to times the width of the stream at the top of bank or 20 feet each side from top of bank, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) New construction or substantial improvements of structures shall be elevated or flood-proofed in accordance with elevations established in accordance with § 151.41(A)(10). When base flood elevation data is not available from a federal, state or other source, the lowest floor, including basement, shall be elevated, at least two feet above the highest adjacent grade.

(Ord. passed 2-9-1988)

§ 151.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor as provided by G.S. § 14-4. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined in an amount as set out in the fee schedule on file in the Town Clerk's office or imprisoned for not more than 30 days, or both. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent town from taking other lawful action as is necessary to prevent or remedy any violation.

(Ord. passed 2-9-1988)

TABLE OF SPECIAL ORDINANCES

Table

- I. FRANCHISE AGREEMENTS**
- II. ANNEXATIONS**
- III. DESIGNATIONS OF TRESPASS AGENCY**

TABLE I: FRANCHISE AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	- -	Amendment; transfer of the cable television franchise from American Television and Communications Corporation to Time Warner Entertainment Company, L.P.
-	5-15-1984	Granting a community antenna television franchise to Fayetteville Cablevision, a division of American Television and Communications Corporation
-	6-9-1992	Amendment; making certain revisions in the cable television franchise agreement with Time Warner Entertainment Company, L.P.
-	5-18-1999	Granting a cable television franchise to Time Warner Entertainment/Advanced-Newhouse Partnership

TABLE II: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
18	3-29-1990	Extending the corporate limits of the town; Bertie A. Williams, Lots 1 through 8, Plat Book 21, Page 88, of the County Registry
18A	4-20-2010	Extending the corporate limits of the town; Bertie A. Williams and Others, Williamsdale Subdivision, the eastern corner of Lot No. 1, Plat Book 21, Page 88, of the County Registry; and the southwest corner of Lot No. 78, Plat Book 35, Page 4 of the County Registry
18B	8-16-2011	Extending the corporate limits of the town; 4.45 acres, being a portion of the tract conveyed to Bertie A. Williams and wife, Patricia A. Williams by deed recorded in Book 1029, Page 711 of the County Registry
-	8-16-2011	Extending the corporate limits of the town
-	6-16-2021	Extending the corporate limits of the town; 4.48 acres, being a portion of the property conveyed to James Herbert Spell by deed recorded in Book 849, Page 524 of the County Registry
-	6-16-2021	Extending the corporate limits of the town

TABLE III: DESIGNATIONS OF TRESPASS AGENCY

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
-	- -	102 West Williams Street
-	- -	201 West Williams Street
-	- -	208 West Williams Street
-	- -	220 West Williams Street
-	- -	101 East Williams Street
-	- -	107 East Williams Street
-	- -	202 East Williams Street
-	- -	404 West Clinton Street
-	- -	123 West Union Avenue
-	- -	416 South Gray Street

PARALLEL REFERENCES

References to North Carolina General Statutes
References to Resolutions
References to Ordinances

REFERENCES TO NORTH CAROLINA GENERAL STATUTES

<i>G.S. Section</i>	<i>Code Section</i>
1-593	10.05
Chapter 7A	151.27
14-4	131.99, 151.99
14-4(a)	10.99
18A-2	130.04
20-145	31.25
67-30	90.02
97-1 et seq.	33.29
105-109(d)	110.15
105-249	110.13
105-249.1	110.13
105-349	Charter
Chapter 143, Art. 21, part 6	Ch. 151, 151.01
143-138 et seq.	150.1
143-166.1 et seq.	31.02
153A-121	90.02
153A-122	90.02, 93.04
153A-442	90.02
159-7 et seq.	32.16
160A et seq.	150.01
160A-1	Charter
160A-70	Charter
160A-74	Charter
160A-75	Charter
160A-84	30.02
160A-175	10.99
160A-175(c)	93.99
160A-188	90.05
160A-189	130.03
160A-192	50.02
160A-193	91.04
160A-207	110.15
160A-411 et seq.	150.01, 150.18
Chapter 160A, Art. 7, part 3	Charter
Chapter 160A, Art. 19	150.02

Autryville - Parallel References

<i>G.S. Section</i>	<i>Code Section</i>
Chapter 160A, Art. 19, parts 3, 5 and 8	Ch. 151, 151.01
Chapter 160A, Art. 19, part 6	150.01, 150.02
163-292	Charter
164-7	10.14

REFERENCES TO RESOLUTIONS

<i>Res. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	5-21-2002	93.01—93.10, 93.99
-	5-20-2008	90.01—90.04, 90.15—90.17, 90.30, 90.31
-	11-18-2008	50.01
-	1-19-2010	150.02
-	4-20-2010	51.01—51.10, 51.99
-	2-16-2021	30.03
-	2-16-2021	51.39

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
-	--	Ch. 70, Sch. I
-	--	TSO Table I
-	--	TSO Table III
-	--	30.01, 32.01—32.04, 32.15—32.17, 33.01—33.36, 33.50—33.54
-	--	31.02
-	--	31.15—31.26
-	--	51.26
-	--	51.28
-	--	51.35
-	8-5-1975	130.04, 130.99
5	6-7-1977	Ch. 70, Sch. I
-	4-8-1980	31.01
-	4-8-1980	TSO Table III
-	5-13-1980	TSO Table III
-	5-13-1980	TSO Table III
-	5-13-1980	TSO Table III
-	5-13-1980	TSO Table III
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