TOWN OF
# RED SPRINGS
North Carolina

## Charter and Code of Ordinances

**Adopted December 1, 2015**

**John McNeill, Mayor**
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Prepared by:

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**The Town of Red Springs was incorporated as a municipality under the laws of the State of North Carolina in 1887 through Chapter 129 of the *Private Laws*.**

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# CHARTER

**CHAPTER 129 of the PRIVATE LAWS of 1887, as amended by CHAPTER 8 of the PRIVATE LAWS of 1921, CHAPTER 310 of the PRIVATE LAWS of 1967.**

### *SECTION 1. INCORPORATION; CORPORATE POWERS.*

The inhabitants of the Town of Red Springs, North Carolina, within the boundaries as established in **Section 3** of this Charter or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate by name the Town of Red Springs, and under that name shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, lease, hold, manage and control such property as its interest may require; and, except as prohibited by the Constitution of North Carolina or restricted by this Charter, the Town of Red Springs shall have and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The following shall be deemed to be a part of the powers conferred upon the Town of Red Springs by this section:

(1) Taxation, etc. To levy, assess and collect taxes and to borrow money within the limits prescribed by general law; and to levy and collect special assessments for benefits conferred. The board of commissioners may, in its discretion, direct the payment into the general fund of all or any part of the proceeds of taxes which are, when collected, three (3) or more years delinquent.

(2) Public services and public utilities. To furnish all local public services; to purchase, hire, construct, own, maintain and operate or lease local public utilities; to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for any such purpose, subject only to restrictions imposed by general law for the protection of other communities; and to grant local public utility franchises and regulate the exercise thereof.

(3) Local improvements; condemnation procedure. To make local public improvements and to acquire, by condemnation, or otherwise, property within or without its corporate limits necessary for such improvements. The procedure for condemning property for such purposes shall be in accordance with the procedure outlined in the chapter entitled "Eminent Domain" of the General Statutes, same being chapter 40, except that section 40-10 of the General Statutes of North Carolina, 1943, as amended shall not apply to condemnation proceedings instituted by the Town of Red Springs in acquiring properties for such purposes; the town may also acquire an excess over that needed for such improvement and may sell or lease such excess property with restrictions, in order to protect and preserve the improvement.

(4) Bond issues. To issue and sell bonds on the security of any such excess property, or of any public utility owned by the town, or of the revenues thereof, or of both, including in the case of a public utility, if deemed desirable by the town, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate such utility.

(5) Public libraries, parks, airports, etc. To organize and administer public libraries and to operate and conduct a system of parks and recreation and to own, lease or operate airports or to lease such airports upon such basis as the board of commissioners may deem to the best interest of the town.

(6) Police, sanitary, zoning, etc., regulations. To adopt and enforce within its limits local police, sanitary, zoning, subdivision regulations and other ordinances and other similar regulations not in conflict with the general law.

(7) Exercise of powers. Except as otherwise provided in this Charter, the board of commissioners shall have authority to determine by whom and in what manner the powers granted by this Charter shall be exercised.

(Sess. Laws 1949, Ch. 1252, § 1; Sess. Laws 1967, Ch. 55, § 1.)

### SECTION 2. ENUMERATED POWERS NOT EXCLUSIVE; TOWN TO HAVE ALL POWERS WHICH WOULD BE COMPETENT TO ENUMERATE.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the Town of Red Springs shall have, and may exercise, all powers which, under the Constitution of North Carolina and the General Statutes, it would be competent for this Charter specifically to enumerate. All powers of the town, whether expressed or implied, shall be exercised in the manner prescribed by this Charter, or, if not prescribed therein, then in the manner provided by ordinance or resolution of the town commission.

(Sess. Laws 1949, Ch. 1252, § 2.)

### SECTION 3. CORPORATE LIMITS.

The corporate limits of the town shall be as follows: Beginning at a point one-half of a mile north of the center of Main Street where it intersects the Atlantic Coast Line Railroad and running thence due east one-half a mile, thence due south one mile, thence due west one mile, thence due north one mile, thence due east one-half mile to the beginning.

(Sess. Laws 1949, Ch. 1252, § 3.)

***Note:*** *There have been a number of annexations since enactment of this section. For current town boundaries, see the official town map which is on file in the office of the Town Clerk.*

### SECTION 4. MAYOR AND BOARD OF COMMISSIONERS CREATED; QUALIFICATIONS AND TERM OF OFFICE; DUAL OFFICE HOLDING; FILLING VACANCIES; ORDINANCES CHANGING SALARIES.

Except as otherwise provided in this Charter, all powers of the town shall be vested in a mayor and a board of six commissioners who shall be nominated and elected from the town at large in the manner hereinafter provided. The terms of the members of the first board of commissioners elected after the ratification of this Act shall begin on May 10, 1949, and shall expire on July 1, 1951. Thereafter, the terms of office of members of the board of commissioners shall be for two years, and until their successors are elected and qualified. Except as provided for the members of the first board of commissioners elected after the ratification of this Act, the terms of office of the several commissioners shall begin on the first day of July next following their election. The mayor and commissioners shall be qualified electors of the town and shall hold no other public office except that of notary public or member of the National Guard or Naval or Military Reserve. If the mayor or any member of the commission shall cease to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, his office shall immediately become vacant. If a vacancy occurs in the office of mayor or commission (commissioner), it shall be filled for the remainder of the unexpired term by a majority vote of the remaining members of the commission. No ordinance fixing or changing the salary of the mayor or members of the commission shall become effective during the current term of office of the board of commissioners.

(Sess. Laws 1949, Ch. 1252, § 4; Sess. Laws 1951, Ch. 344, § 1; Sess. Laws 1969, Ch. 181, § 3.)

***Note:*** *The term of office of Commissioners is now four years, staggered terms, three Commissioners being elected each odd-numbered year, as provided in Sess. Laws 1957, Ch. 457, §§ 3, 5. The Mayor is still elected biennially for a two-year term.*

### SECTION 5. MAYOR PRO TEM; POWERS AND DUTIES OF MAYOR AND MAYOR PRO TEM; GENERALLY.

At its first meeting in July or as soon thereafter as practical, the commission shall elect one of their number as mayor pro tem. It shall be the duty of the mayor to preside at all meetings of the commission. He shall be the recognized head of the town government for all ceremonial and legal purposes and by the governor or any other state or federal agency for purposes of military law or civilian defense or any other emergency, and shall exercise such other powers and perform such other duties as are or may be conferred or imposed upon him by the General Laws and the Constitution of North Carolina, by this Charter and the ordinances of the Town of Red Springs. He shall have no regular administrative duties. It shall be the duty of the mayor pro tem to act as mayor during the absence or disability of the mayor and if

there becomes a vacancy in the office of mayor the mayor pro tem shall become mayor for the completion of the required term.

(Sess. Laws 1949, Ch. 1252, § 5.)

### SECTION 6. MEETINGS OF GOVERNING BODY AND COMMITTEES THEREOF.

At 8:00 P.M. on the first weekday in July following each regular municipal election, the town board shall meet in the town hall or some other suitable place for the purpose of taking the oath of office and to assume the duties of the office. Each member of the board shall take and subscribe to an oath as required by the Constitution of North Carolina. Thereafter, the town board shall meet at such times and at such place as may be prescribed by ordinance or resolution but not less frequently than once each month. Special meetings of the board of commissioners may be called by the mayor or by any two members of the commission. All meetings of the town board or of committees thereof shall be open to the public and all citizens of the Town of Red Springs shall within reason have a reasonable opportunity to be heard at any such meeting or on any matter relating to the public interest of the Town of Red Springs.

(Sess. Laws 1949, Ch. 1252, § 6.)

### SECTION 7. TOWN COMMISSION - JUDGE OF QUALIFICATIONS AND ELECTION OF MEMBERS; SUBPOENA POWERS; RULE MAKING POWERS; JOURNAL OF PROCEEDINGS; EXPULSION OF MEMBERS.

The town commission shall be the judge of the election and qualifications of its members and in such cases shall have power to subpoena citizens and compel the production of all pertinent books, records and documents. The decision of the town board in any such case shall be subject to review by the courts. The town board shall determine its own rules and the order of business and shall require that the town clerk keep an accurate and complete journal of its proceedings. It shall have power to compel the attendance of absent members and may expel a member from the town board for disorderly conduct, willful refusal to attend meetings, malfeasance in office, or the conviction of any crime involving moral turpitude; provided, however, that no member of the town commission shall be expelled unless notified of the charge against him and given an opportunity to be heard in his own defense.

(Sess. Laws 1949, Ch. 1252, § 7.)

### SECTION 8. SAME - QUORUM; VOTE REQUIRED ON MATTERS BEFORE BOARD; WHEN MEMBERS EXCUSED FROM VOTING.

A majority of the members of the town board shall constitute a quorum to do business. The affirmative vote of the majority of the members present shall be necessary to adopt any ordinance, resolution, or other order. No member of the commission shall be excused from voting on any question before the commission except on matters involving the consideration of his own official conduct.

(Sess. Laws 1949, Ch. 1252, § 8.)

### SECTION 9. SAME - AUTHORITY TO FIX SALARIES, PRESCRIBE BONDS AND REQUIRE OATHS.

The board of commissioners shall fix all salaries, prescribe bonds and require such oaths as it may deem necessary.

(Sess. Laws 1949, Ch. 1252, § 9; Sess. Laws 1969, Ch. 212, § 5.)

### SECTION 10. ELECTIONS - TIME FOR AND CONDUCT OF REGULAR AND SPECIAL ELECTIONS.

The regular election for the members of the town board shall be conducted on Tuesday following the first Monday in May in odd-numbered years, and shall be conducted in accordance with the provisions of this Charter and the General Statutes regulating municipal elections. The town board shall have the power to call a special election for the purpose

of submitting any issue to the public and fix the time for such election to be conducted in accordance with the General Statutes of North Carolina relating to special municipal elections.

(Sess. Laws 1949, Ch. 1252, § 10.)

### SECTION 11. SAME - RULES AND REGULATIONS.

The board of commissioners shall make all needful rules and regulations, not inconsistent with this Charter, for the conduct of elections, for the prevention of frauds in elections and for the recount of the ballots in case of doubt or fraud.

(Sess. Laws 1949, Ch. 1252, § 11.)

### SECTION 11.1. SAME - AUTHORITY TO CONTRACT FOR USE OF COUNTY REGISTRATION BOOKS, ELECTION EQUIPMENT, ETC.; WHEN COUNTY TO CONDUCT TOWN ELECTIONS; RELATED PROVISIONS.

Notwithstanding any other provisions of this Charter or any other law, the governing body of the Town of Red Springs and the Robeson County board of elections are expressly authorized to enter into contracts and agreements, upon such terms and conditions as may be mutually agreed, for the use of the county registration books, process or records and for the use of equipment, personnel, and for the registration of voters, the holding, conducting and supervision of all municipal elections.

In the event the governing body of the municipality requests the county board of elections, by resolution duly adopted, to conduct the municipal elections, it shall, on the date specified in this Charter, hold, conduct, and supervise all regular and special elections in the municipality in accordance with the provisions of law applicable to registration of voters and holding of general elections in Robeson County and all pertinent provisions of chapter 163 of the General Statutes, except with respect to those provisions which are in conflict with this Charter respecting dates of elections, candidates for office, filing of candidates and placement of names on a ballot. Upon agreement that the county registration books shall be used in the municipal elections, then all persons duly registered in the county books, who live within the corporate limits, shall be entitled to vote in any election held in the municipality. The municipal registration books previously used by the town shall no longer be used in elections and shall be impounded by the town clerk. The county registration books for the precincts within the town shall remain in the custody of the Robeson County board of elections.

(Sess. Laws 1965, Ch. 247, § 1.)

***Note:*** *By resolution of March 2, 1965, the Town Board resolved that this section of the Charter "shall apply only to the extent of the use of county registration books, county registrars, and polling places. All elections will be held under the direction and supervision of the town Board of Commissioners."*

### SECTION 12. SAME - CERTIFICATES OF CANDIDACY; FILING FEE.

Any qualified elector of the town may become a candidate for mayor or a member of the commission by filing with the town clerk at least fourteen days prior to the date of the election a certificate of intention to run, and may be required to pay a filing fee, the amount of which shall be determined by the town board, not to exceed ten dollars.

(Sess. Laws 1949, Ch. 1252, § 12.)

### SECTION 13. SAME - BALLOTS.

The full names of candidates, except such as may have withdrawn, died, or become ineligible, shall be printed on the official ballots in the alphabetical order of the surnames in rotation without any party designation. Each set of ballots shall begin with the name of a different candidate, the other names being arranged thereafter in regular alphabetical order, commencing with the name next in alphabetical order after the one that stands first on such set of ballots. When

the last name is reached in alphabetical order it shall be followed by the name that begins with the first letter represented in the list of names and by the others in regular order.

(Sess. Laws 1949, Ch. 1252, § 13.)

### SECTION 14. SAME - COMMISSIONERS TO BE ELECTED AT LARGE; ELECTORS TO HAVE ONE VOTE FOR MAYOR AND SAME NUMBER OF VOTES FOR COMMISSIONER AS NUMBER TO BE ELECTED; DETERMINATION OF WINNERS.

All members of the board of commissioners shall be elected at large. Every voter shall be entitled to vote for one candidate for mayor and for as many candidates as there are members to be elected to the board of commissioners. All candidates, up to the number to be elected, who received the highest number of votes shall be declared elected.

(Sess. Laws 1949, Ch. 1252, § 14.)

### SECTION 15. TOWN CLERK.

The town clerk shall keep the records of the board of commissioners, maintain a journal of its proceedings, and perform such other and further duties as may be required of him by law or by the board of commissioners.

(Sess. Laws 1949, Ch. 1252, § 15; Sess. Laws 1969, Ch. 212, § 5.)

### SECTION 16. TOWN ATTORNEY.

The town attorney shall be an attorney at law who shall have practiced in the State of North Carolina for at least two years. He shall be the chief legal advisor of and attorney for the town and all departments and offices thereof in matters relating to their official powers and duties. It shall be his duty to attend upon call all meetings of the town board; to give advice in writing, when so requested, to prosecute or defend, as the case may be, all suits or cases to which the town may be a party, and to perform such other duties of a legal nature as the town board may require.

(Sess. Laws 1949, Ch. 1252, § 16.)

### SECTION 17. TOWN ACCOUNTANT.

The city (town) accountant shall have authority and shall be required: To maintain accounting control over the finances of the town government, for which purpose he is empowered to operate a set of general accounts embracing all the financial transactions of the town, and such subsidiary accounts and cost records as may be required for purposes of administrative direction and financial control; and to perform such other duties pertaining to the financial records of the town government as the board of commissioners may require.

(Sess. Laws 1949, Ch. 1252, § 17.)

### SECTION 18. TAX COLLECTOR.

The tax collector shall collect all taxes, licenses, fees, and other moneys belonging to the town government, subject to the provisions of this Charter and ordinances enacted thereunder, and he shall diligently comply with and enforce the General Laws of North Carolina relating to the collection, sale and foreclosure of taxes by municipalities. It shall be the duty of the tax collector to deposit daily in the town depository all money belonging to the town.
(Sess. Laws 1949, Ch. 1252, § 18.)

### SECTION 19. TOWN TREASURER.

The town treasurer shall have custody of and shall disburse all moneys belonging to the town government subject to the provisions of this Charter and ordinances enacted thereunder; shall have custody of all investments and invested funds of the town or in possession of the town in a fiduciary capacity, and shall keep a record of such investments, and shall have custody of all bonds and certificates of town indebtedness including such bonds and certificates unissued or cancelled, and the receipt and delivery of city bonds and certificates for transfer, registration or exchange.

(Sess. Laws 1949, Ch. 1252, § 19; Sess. Laws 1969, Ch. 212, § 5.)

### SECTION 20. FISCAL PROVISIONS - PROMPT DEPOSIT OF MONEY IN TOWN DEPOSITORY REQUIRED; DESIGNATION OF DEPOSITORY; VOUCHERS FOR DISBURSEMENT OF MONEY.

All moneys received by any department or agency of the town for or in connection with the business of the town government shall be paid promptly into the town depository. Such institution shall be designated by the board of commissioners in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established. All interest on moneys belonging to the town shall accrue to the benefit of the town government. All moneys belonging to the town government shall be disbursed only on vouchers signed by any two persons designated by recorded resolution of the board of commissioners.

(Sess. Laws 1949, Ch. 1252, § 20.)

### SECTION 21. SAME - AUTHORITY TO ISSUE BONDS.

The town may issue bonds for the purpose and in the manner prescribed by the General Laws of North Carolina for the issuance of bonds by municipalities.

(Sess. Laws 1949, Ch. 1252, § 21.)

### SECTION 22. PURCHASES AND CONTRACTS - GENERALLY.

Before making any purchase or contract for supplies, materials, equipment, or contractual services, opportunity shall be given for competition, under such rules and regulations, and with such exceptions, as the town board may prescribe. All expenditures for supplies, materials, equipment or contractual services involving more than one thousand dollars shall be made on a written contract, and such contract shall be awarded to the lowest responsible bidder after such public notice and completion as may be prescribed by ordinances and state law.

(Sess. Laws 1949, Ch. 1252, § 22.)

### SECTION 23. SAME - FOR TOWN IMPROVEMENTS IN EXCESS OF ONE THOUSAND DOLLARS.

Any town improvement costing more than one thousand dollars shall be executed by contract except where such improvement is authorized by the board of commissioners to be executed directly by a town department in conformity with detailed plans, specifications and estimates. All such contracts for more than one thousand dollars shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed; provided, (that) the board of commissioners shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the board of commissioners.

(Sess. Laws 1949, Ch. 1252, § 23.)

### SECTION 24. SAME - CONTRACTS EXTENDING BEYOND ONE YEAR.

No contract involving the payment of money out of the appropriations of more than one year (other than renewals of continuing appropriations), shall be made for a period of more than ten years; nor shall any such contract be valid unless made or approved by ordinance. No ordinance providing for such a contract shall be valid unless notice of the intention to pass the same were published in a newspaper of general circulation within the city (town) at least ten days before its passage by the board of commissioners.

(Sess. Laws 1949, Ch. 1252, § 24.)

### SECTION 25. INDEPENDENT AUDITS.

As soon as practicable after the close of each fiscal year, an independent audit shall be made of all accounts of the town government by qualified public accountants, selected by the board of commissioners, who have no personal interest

directly or indirectly in the financial affairs of the town government or of any of its officers. The results of this audit shall be published immediately upon its completion. If an audit is required be made by state officials under the provisions of state law for the inspection and audit of municipal accounts, the board of commissioners may accept such audit by the state as fulfilling the requirements of this section.

(Sess. Laws 1949, Ch. 1252, § 25.)

### *SECTION 26. RECORDS AND ACCOUNTS TO BE OPEN TO PUBLIC INSPECTION; EXCEPTIONS.*

All records and accounts of every office and department of the town shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under reasonable regulations established by the board of commissioners, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

(Sess. Laws 1949, Ch. 1252, § 26.)

### *SECTION 27. PERSONAL INTEREST OF TOWN OFFICERS AND EMPLOYEES; VOIDABILITY OF CONTRACTS UPON VIOLATION OF SECTION.*

Neither the mayor nor any member of the board of commissioners nor any officer or employee of the town shall have a financial interest, direct, or indirect in any contract with the town, or be financially interested, directly or indirectly, in the sale to the town of any land, materials, supplies or services except on behalf of the town as an officer or employee. Any violation of this section, with the knowledge, express or implied, of the person or corporation contracting with the city (town) shall render the contract voidable by the town board.

(Sess. Laws 1949, Ch. 1252, § 27.)

### *SECTION 28. SEPARABILITY PROVISION; CHARTER TO SUPERSEDE ALL LAWS AND ORDINANCES INCONSISTENT THEREWITH.*

If any part of this Charter shall be declared invalid by a court of competent jurisdiction, such judgment shall not invalidate the remainder of the Charter. The provisions of this Charter shall supersede all laws and ordinances not consistent herewith, insofar as the Town of Red Springs is affected thereby.

(Sess. Laws 1949, Ch. 1252, § 28.)

### *SECTION 29. EFFECTIVE DATE.*

This Act shall be in full force and effect from and after its ratification. In the General Assembly read three times and ratified, this the 23rd day of April, 1949.

(Sess. Laws 1949, Ch. 1252, § 29.)

# CODE OF ORDINANCES

TOWN OF
RED SPRINGS
North Carolina

# TITLE I – USE OF THE CODE

## CHAPTER 1. – GENERAL PROVISIONS

### SECTION 1-1. - HOW CODE DESIGNATED AND CITED.

The provisions in the following chapters and sections shall constitute and be designated as the "Code of Ordinances, Town of Red Springs, North Carolina," and may be so cited. Such code may also be cited as the Red Springs Town Code. ('70 Code, 2009 S-5 Supplement, § 1-1)

### SECTION 1-2. - INTERPRETATION.

(a) 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 the General Statutes of North Carolina.

(b) Where a section of this code is followed by a reference to the General Statutes of North Carolina, the reference indicates that the section is analogous or similar to the cited sections in the General Statutes of North Carolina. Footnotes, cross-references, and other comments are by way of explanation only and should not be deemed a part of the text of any section.

(c) Nothing herein contained is intended to conflict with or supersede applicable state or federal laws.

(d) Code, title, chapter, and section headings do not constitute any part of the law as contained in the code.

### SECTION 1-3. - CAPTIONS.

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

### SECTION 1-4. - DEFINITIONS AND RULES OF CONSTRUCTION.

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

***BOARD OF COMMISSIONERS.*** The governing body of the Town of Red Springs, North Carolina.

***COMPUTATION OF TIME***. In computing any period of time prescribed or allowed by this Code or by order of court, the day of the act, event, default or publication after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half-holiday shall be considered as other days and not as a holiday. Eastern Standard Time shall be the official time except during that period when what is commonly known as "daylight saving time" is in effect through adoption by the Board of Commissioners or otherwise.

***State Law Reference—*** *Computation of time, G.S. § 1-593.*

***COUNTY.*** Robeson County, 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 designate otherwise.

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

***IN THE TOWN.*** Any territory jurisdiction of which for the exercise of its regulatory power has been conferred on the town by public or private law.

***MONTH.*** A calendar month.

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

***OWNER.*** When 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 part of such property.

***PERSON.*** A corporation, firm, partnership, association, organization, and any other group acting as a unit, as well as an individual.

***PERSONAL PROPERTY.*** Every species of property, except real property as herein defined.

***PRECEDING*** and ***FOLLOWING.*** Next before and next after, respectively.

***PROPERTY.*** Real and personal property.

***REAL PROPERTY.*** Lands, tenements, and hereditaments.

***SCHEDULE OF FEES AND CHARGES.*** The official list maintained in the office of the collector of revenue, compiled in accordance with the provisions of G.S. Section 160A-77, which establishes rates for utility or other public enterprises in addition to fees of any nature as determined from time to time by the Board of Commissioners.

***SHALL*** and ***MAY.*** The word ***SHALL*** is mandatory, and the word ***MAY*** is permissive.

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

***SIGNATURE*** or ***SUBSCRIPTION.*** A mark when a person cannot write.

***STATE.*** The State of North Carolina.

***STREET.*** Any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the town and shall mean the entire width of the right-of-way between abutting property lines.

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

***TENANT*** or ***OCCUPANT.*** When applied to a building or land shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

***TOWN.*** The Town of Red Springs in the County of Robeson and the State of North Carolina.

***WRITING*** or ***WRITTEN.*** Shall include printing and any other mode of representing words and letters.

***YEAR.*** A calendar year.

('70 Code, 2009 S-5 Supplement, § 1-2)

***State Law Reference—*** *Rules for construction of statutes, G.S. § 12-3.*

### *SECTION 1-5. - AMENDMENTS TO CODE.*

Any chapter, section, or division amended or added to this code by ordinances passed subsequent to this code may be numbered in accordance with the numbering system of this code and printed for inclusion herein. Any chapter, section, or division repealed by subsequent ordinances may be excluded from this code by omission from reprinted pages. Subsequent ordinances as printed or omitted shall be prima facie evidence of the subsequent ordinances until the legislative body of the town adopts a new code of ordinances.

(a) All ordinances passed subsequent to the adoption of this Code which amends, repeals or in any way affects this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. In the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the Board of Commissioners.

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

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

(d) Repeal of any of the provisions of this Code may be effected by repealing such provisions by specific reference to the section or subsection number of this Code in the following language: "That section (or subsection) _____ of the Code of Ordinances, Town of Red Springs, North Carolina, is hereby repealed in its entirety."

### *SECTION 1-6. – CONFLICTING PROVISIONS.*

If the provisions of different codes, chapters, or sections of the codified ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the subject matter taken as a whole.

### SECTION 1-7. – REFERENCES TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, the 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.

### SECTION 1-8. – REFERENCES TO OFFICES.

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.

### SECTION 1-9. – ERRORS AND OMMISSIONS.

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, the spelling shall be corrected and the word or words supplied, omitted, or substituted that will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

### SECTION 1-10. – OFFICIAL TIME.

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.

### SECTION 1-11. – REASONABLE 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) In computing any period of time prescribed or allowed by this code, by order of any court, or by any applicable statute, such computation shall be in the manner prescribed by Rule 6 of the North Carolina Rules of Civil Procedure.

### SECTION 1-12. – EXTRATERRITORIAL JURISDICTION.

In conformity with G.S. 160A, Art. 19, the town shall henceforth exercise planning and zoning jurisdiction of an area surrounding the town, which shall not extend beyond the town line a distance greater than one mile. The legal description of the extraterritorial area and a map of same shall be prominently displayed in the town hall.
(Ord. passed 2-14-72)
***Statutory reference:*** *Extraterritorial jurisdiction for enforcement of planning and development regulations, see G.S. § 160A-360*

### SECTION 1-13. – TOWN SEAL.

(a) The town seal shall consist of a circle, within which and following the arc thereof at the top shall be words, "The Town of Red Springs", and following the arc at the bottom thereof shall be the words, North Carolina; and within the circle there shall be an inner circle, within which shall be a figure of a Thistle and below the Thistle shall be the date of incorporation 1887.

(b) The Town Clerk shall be custodian of the Town Seal, and shall affix such seal to all documents which by law are required to bear such seal, when directed to do so by competent authority.

*('70 Code, 2009 S-5 Supplement, § 1-8) (Am. Res. passed 10-7-80)*

### *SECTION 1-14. - WHEN ORDINANCES EFFECTIVE.*

Every ordinance enacted by the Board of Commissioners shall be in force and effect as soon as passed, published or posted, unless otherwise ordered.

### *SECTION 1-15. - RECORDING OF ORDINANCES.*

Every ordinance passed by the Board of Commissioners shall be immediately recorded in a book provided for this purpose by the Board, which book shall be known as the "Original Code of the Town of Red Springs," under the proper chapter and article or shall be recorded in its entirety in the minutes, according to context, and shall be placed and assigned the proper section number.

### *SECTION 1-16. - SUPPLEMENTATION OF CODE.*

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

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

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

(1) Organize the ordinance material into appropriate subdivisions;

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

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

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

(inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

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

### SECTION 1-17. - ALTERING CODE.

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

### SECTION 1-18. - LIABILITY OF CORPORATE OFFICERS, AGENTS AND EMPLOYEES FOR VIOLATION OF CODE.

For a violation of any provision of this Code or other ordinance of the town by a corporation, the officer, agent or employee thereof who performs the act constituting the violation or procures, aids or abets the performance of such act shall be subject to the same penalties as if he himself had committed such violation.

### SECTION 1-19. - PENALTIES AND REMEDIES FOR CODE VIOLATIONS.

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

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

(c) Any provision of this code or any other town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the general court of justice shall have jurisdiction to issue such orders. When a violation of such a provision occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the State Rules of Civil Procedure in general and Rule 65 in particular.

a. In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this code or the ordinance.

i. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the town may execute the order of abatement.

ii. The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien.

b. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by

the Clerk of Superior Court in an amount approved by the Judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the Judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

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

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

(f) Any violation of any provision of this code or any other town ordinance shall subject the offender to a civil penalty in the amount set by the Board of Commissioners. Violators shall be issued a written citation, which must be paid within ten days. Each day's continuing violation shall be a separate and distinct offense. The Town Attorney is hereby authorized to file suit on behalf of the town to collect any unpaid citations and the Town Manager is hereby authorized to verify and sign complaints on behalf of the town in such suits.

(G.S. § 160A-175) ('70 Code, 2009 S-5 Supplement, § 1-6) (Am. Ord. 05-37, passed 9-6-05)

***State Law Reference—*** *Violation of town or town ordinances declared a misdemeanor punishable by fine not exceeding $50.00 or imprisonment not exceeding 30 days, G.S. § 14-4.*

### *SECTION 1-20. - ORDINANCES NOT AFFECTED BY CODE.*

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

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

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

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

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

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

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

(7) Any 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 therefore;

(10) Any zoning ordinance;

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

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

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

(14) Any ordinance levying or imposing taxes not included in this Code;

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

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

### SECTION 1-21. - EFFECT OF REPEAL OR EXPIRATION OF ORDINANCES.

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

(a) The repeal of an ordinance or its expiration by virtue of any provision contained therein shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired.

(b) When an ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

***State Law Reference—*** *Effect of repeal, G.S. § 12-2.*

### SECTION 1-22. - PROVISIONS CONSIDERED AS CONTINUATIONS OF EXISTING ORDINANCES.

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

### SECTION 1-23. - SEVERABILITY OF PARTS OF CODE.

It is hereby declared to be the intention of the Board of Commissioners that the sections, paragraphs, sentences, clauses, and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, or section of this code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this code, since they would have been enacted by the Board of Commissioners without the incorporation in this code of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.
('70 Code, 2009 S-5 Supplement, 2009 S-5 Supplement, § 1-5)

### SECTIONS 1-24. – 1-25. - RESERVED.

# TITLE 2 – ADMINISTRATION

## CHAPTER 1. – BOARD OF COMMISSIONERS

### *SECTION 2-1. – MEETINGS.*

(a) The Board of Commissioners shall meet in the town hall at 7:00 p.m. on the first Tuesday of each month; provided, that when the first Tuesday of any month falls upon a holiday then, for that month, the regular meeting shall be at 7:00 p.m. on the next succeeding business day.

(1) The Mayor, Mayor Pro Tempore, or any two Commissioners may call a special meeting of the Board of Commissioners by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the Mayor and each Commissioner or left at his usual dwelling place at least six hours before the meeting.

(2) At any special meeting of the Board of Commissioners only such business shall be-transacted as stated in the call for the meeting unless all members are present or have signed a written waiver of notice.

('70 Code, 2009 S-5 Supplement, § 2-11) (Ord. passed 1912; Am. Ord. 1, passed 7-1-59)
***Statutory reference:*** *Meetings, see G.S. § 160A-71*

### *SECTION 2-2. – ATTENDANCE AT MEETINGS.*

It shall be the duty of the Mayor and each Commissioner, the Town Manager, Town Clerk, Town Attorney, Town Treasurer, and Chief of Police to attend every meeting of the Board of Commissioners unless excused by the Board.

('70 Code, 2009 S-5 Supplement, § 2-12) (Ord. passed 1912; Am. Ord. 1, passed 7-1-59)

### *SECTION 2-3 – OATH OF OFFICE.*

The Mayor, each member of the Board of Commissioners and each member of every Town Board or Commission shall take the oath prescribed by the state constitution and the Charter.

***State Law Reference—*** *N.C. Constitution, Article. 6, Section 7.*

### *SECTION 2-4. – RULES OF PROCEDURE.*

(a) Opening of meeting. At the hour appointed for the meeting of the Board of Commissioners, the Mayor shall take the chair and direct a call of the members by the Town Clerk, who shall note the absentees. If a quorum be not present the Mayor shall send for absentees, and, upon the appearance of a quorum, shall call the meeting to order and proceed to business; but, if a quorum fail to attend, the meeting shall stand adjourned to a time agreed on by a majority of the members present.

(b) Appointment of committees. The Mayor shall appoint all standing and special committees, except when the Board shall otherwise direct.

(c) Order of business. When a regular meeting shall be organized the order of business shall be as follows:

1. Reading of proceedings of the last regular meeting and other special meetings, if any.
2. Correction of the minutes, if necessary, and approval.
3. Reports of regular committees.
4. Reports of special committees.
5. Reports of officers.
6. Unfinished business.
7. Communications and petitions.
8. Motions, resolutions, and ordinances.

(d) Exception. If the Board of Commissioners directs any matter to be the special business of a future meeting, then such matter shall have precedence over all other business at such meeting.

(e) Previous question; ayes and noes. The previous question may be called at any time by a majority of the members present. The ayes and noes may be called by three members.

('70 Code, 2009 S-5 Supplement, § 2-13) (Ord. passed 1912; Am. Ord. 1, passed 7-1-59)

### *SECTION 2-5. – MOTIONS TO RECONSIDER.*

No question decided by the Board of Commissioners shall be reversed at any subsequent meeting, except by two-thirds vote of the members present. A motion to reconsider a vote shall not be in order, except at the same or any adjourned meeting to that at which the vote is taken; or upon due notice given by one voting with the majority, that a motion to reconsider will be made at the next regular meeting.

('70 Code, 2009 S-5 Supplement, § 2-14) (Ord. passed 1912; Am. Ord. 1, passed 7-1-59)

### *SECTION 2-6. – MOTIONS TO ADJOURN.*

A motion to adjourn shall always be in order, and shall be decided without debate.

('70 Code, 2009 S-5 Supplement, § 2-15) (Ord. passed 1912; Am. Ord. 1, passed 7-1-59)

### *SECTION 2-7. – ADDITIONAL RULES GOVERNING THE BOARD; ROBERT'S RULES OF ORDER.*

The Board of Commissioners may, by resolution, adopt such additional rules not inconsistent with state law, the town Charter or this code as may be necessary for the orderly and expeditious trans-action of business, the implementation of the powers vested in the Board by law, and the duties and conduct of members; and the current edition of Robert's Rules of Order shall govern as to all matters not otherwise provided.

('70 Code, 2009 S-5 Supplement, § 2-16)

### *SECTION 2-8. – COMMITTEES.*

(a) At the first meeting in December or as soon thereafter as practical each year the Mayor shall appoint all standing committees of the Board of Commissioners. The Board of Commissioners may, by resolution, create such standing committees as may be desirable for the expeditious transaction of business of the

Board and to facilitate execution of its powers and duties, and define the composition, jurisdiction as to subject matter, powers, and duties of the committees so created.

(b) The Board of Commissioners may, by resolution, create such special committees as may be desirable from time to time to assist the Board with respect to matters not of a permanent nature, and define the composition, jurisdiction as to subject matter, powers and duties of the committees so created, unless otherwise provided in any such resolution, the Mayor shall appoint the members of special committees.

(c) All standing and special committees in existence on the effective date of this code shall continue in effect and shall continue to have their then duly authorized powers and duties until such time as contrary resolutions are adopted pursuant to the provisions of this section.

('70 Code, 2009 S-5 Supplement, § 2-17) (Ord. passed 1912; Am. Ord. 1, passed 7-1-59)

### *SECTION 2-9. – VOTING ON ELECTION OF OFFICERS AND APPOINTMENTS.*

All elections and appointments by the Board of Commissioners shall be made by ballot, if required by as many as two members present; provided, that no election, appointment, or motion shall be valid or adopted unless a quorum be present and voting.

'70 Code, 2009 S-5 Supplement, § 2-18) (Ord. passed 1912; Am. Ord. 1, passed 7-1-59)

### *SECTION 2-10. - BOND OF OFFICERS, EMPLOYEES.*

It shall be the duty of each officer or employee of the town, when so required by the Board of Commissioners before entering upon the discharge of his duties, to enter into a bond with sureties in such sum as the Board shall require, such bond to be payable to the town and conditioned upon the faithful performance of such officer's or employee's duties; provided, however, the town shall pay all premiums which become due upon such bond.

### *SECTION 2-11. - ADDITIONAL DUTIES OF OFFICERS, EMPLOYEES.*

The Board of Commissioners shall have the power to require, from time to time, further and other duties of all officers and employees of the town beyond those prescribed therefore and to define and prescribe powers and duties of all officers elected or appointed to any office provided for by the Charter.

### *SECTION 2-12. - CONFLICT OF INTEREST.*

It shall be unlawful for any officer or employee of the town, directly or indirectly, to become a contractor for work done for the town or to become directly and personally interested in or receive profits from any purchase of supplies for any department of the town. In addition to any other penalty which may be imposed for the violation of this section, any such person so offending shall be removed from office.

***State Law Reference—*** *Conflicts of interest, G.S. § 160A-415.*

### *SECTION 2-13. – MEETINGS – OPEN TO PUBLIC.*

All meetings of the Board of Commissioners, whether regular, special or adjourned, shall be open to the public.

***State Law Reference—*** *Official meetings of public bodies to be open to public, G.S. § 143-318.10.; executive sessions, G.S. § 143-318.11.*

### *SECTION 2.14. – MEETINGS – MAYOR TO PRESIDE*

The Mayor shall preside over all meetings of the Board of Commissioners, and in his absence the Mayor Pro Tem shall preside.

***State Law Reference—*** *Mayor to preside at meetings, G.S. § 160A-69.*

### *SECTION 2.15. – MEETINGS – MINUTES.*

A complete and accurate account of all the proceedings of the Board of Commissioners shall be kept, and all ordinances shall be filed in a book especially provided for that purpose by the Board. Every resolution adopted or made by the Board and every petition submitted to it which is not set out in full in the minutes shall be filed in an exhibit book and, by proper reference, shall be made a part of the minutes. The minutes of each meeting shall be read at the subsequent meeting and, upon being approved by the Board, shall be signed by the Mayor and the Clerk.

***State Law Reference—*** *Keeping of minutes of meetings, G.S. § 160A-72.*

### *SECTION 2.16. – RESIGNATION OF BOARD MEMBER.*

Resignation of any member of the Board of Commissioners shall be tendered in writing and such resignation shall lie on the table until the next regular meeting of the Board.

### *SECTION 2.17. – FILLING OF VACANCIES.*

The Board shall fill all vacancies caused by death, resignation or failure to act or otherwise in the Board of Commissioners or offices filled by the appointment of the Board.

***State Law Reference—*** *Vacancies in elective office, G.S. § 160A-63.*

### *SECTIONS 2-18.—2-25. - RESERVED.*

## CHAPTER 2 – TOWN OFFICIALS

### *SECTION 2-26. - DEPUTIES, ASSISTANTS, AND ACTING TOWN OFFICERS.*

(a) The Town Manager may designate a qualified person to serve as deputy or assistant to any town officer, either for an indefinite or a contingent or fixed period of time, and any deputy or assistant town officer so designated shall have such authority and perform such duties as shall be specified by his principal or by the Town Manager.

(b) During the vacancy of any office or the prolonged absence or disability of any town officer, the Town Manager may appoint a qualified person to act in the place and stead of the absent or disabled officer,

or to fill a vacancy until such time as a permanent appointment is made, and the person so appointed shall have the title of acting officer, with all of the powers and duties of the office in which he so acts. ('70 Code, 2009 S-5 Supplement, § 2-27)

### *SECTION 2-27. - BUILDING INSPECTOR.*

For provisions concerning the Building Inspector, see ***Title 3, Chapter 2***. See also G.S. §§ 160A-411 et seq.

### *SECTION 2-28. - CHIEF OF FIRE DEPARTMENT.*

For provisions concerning the Chief of Fire Department, ***see §13-54.*** See also G.S. § 160A-291.

### *SECTION 2-29. - CHIEF OF POLICE.*

For provisions concerning the Chief of Police, ***see §13-5.*** See also G.S. § 160A-281.

### *SECTION 2-30. - DIRECTOR OF PUBLIC WORKS.*

The Director of Public Works, under the general direction and supervision of the Town Manager, shall supervise the town water and sewer systems and the sewage treatment plant. He shall supervise the construction and maintenance of streets and sidewalks, and shall perform such other duties as may be required of him by the Board of Commissioners or the Town Manager. For duties related to water and sewer ***see §14-3***.

### *SECTION 2-31. - DIRECTOR OF RECREATION.*

For provisions concerning the Director of Recreation, ***see §10-6.***

### *SECTION 2-32. - ELECTRICAL INSPECTOR.*

For provisions concerning the Electrical Inspector, ***see §15-2 and §15-3***.

### *SECTION 2-33. - MAYOR; MAYOR PRO TEM.*

For provisions concerning these officials, see ***Charter § 4 and § 5.*** See also G.S. §§ 160A-66 and 160A-70.

### *SECTION 2-34. - PLUMBING INSPECTOR.*

For provisions concerning the Plumbing Inspector, see ***Title 3, Chapter 2***.

### *SECTION 2-35. - PURCHASING AGENT.*

The Purchasing Agent shall purchase or procure by lease all supplies, material, and equipment normally used by the town in conformity with rules and regulations prepared by the Town Manager, approved by resolution of the Board of Commissioners, and placed on file in the office of the Town Clerk. Such rules and regulations may provide exceptions with respect to expenditures from the petty cash fund; and shall prescribe the procedure by which town officers, employees, and agents shall draw requisitions on the purchasing agent.

('70 Code, 2009 S-5 Supplement, § 2-25)

***Cross-reference:*** *Purchases and contracts, see* ***Charter see §§22-24.***

### *SECTION 2-36. - SUPERINTENDENT OF THE ELECTRICAL DEPARTMENT.*

For provisions concerning the Superintendent of Electrical Department, see ***Title 15.***

### *SECTION 2-37. - TAX COLLECTOR.*

The duties of the Tax Collector are combined with those of the Finance Officer, provided however, that tax collections are contracted to the county.

('70 Code, 2009 S-5 Supplement, § 2-23) (Ord. passed 1912; Am. Ord. 1, passed 7-1-59)

***Cross-reference:*** *Powers and duties of Tax Collector, see* ***Charter, Sec. 18****; Tax Collector to deposit daily in town depository all town money collected by Town Treasurer, see* ***Charter, Sec. 18.***

### *SECTION 2-38. - TOWN ACCOUNTANT.*

The Town Accountant shall have the powers and perform the duties specified for municipal accountants in G.S. §§ 159-24 et seq., and he shall provide such information and reports to the Town Manager and the Board of Commissioners as they may from time to time require.

('70 Code, 2009 S-5 Supplement, § 2-24)

***Cross-reference:*** *Powers and duties of Town Accountant, see* ***Charter, Sec. 17.***

### *SECTION 2-39. - TOWN ATTORNEY.*

For provisions concerning the Town Attorney, see ***Charter, Sec. 16****;* See also G.S. § 160A-173.

### *SECTION 2-40. - TOWN CLERK.*

(a) The Town Clerk shall be the custodian of, and shall be responsible for, all papers, records, and documents of every description belonging to the town, including official bonds, except as otherwise provided by law, the Town Charter, or this code. He shall arrange, index, and file all such papers in such manner as to afford ready access thereto, and shall exercise due care to preserve them against deterioration, fire, theft, and other casualties. Important, irreplaceable papers shall be kept in a fireproof and secured place but photographic copies thereof may be maintained on file in his office for ready reference.

(b) The Town Clerk shall be ex officio clerk and secretary of the Board of Commissioners and shall keep the journal thereof, as set forth in G.S. § 160A-171.

(c) The Town Clerk shall have such other powers and perform such other duties as may be provided by general law, the Town Charter, this code, and the Board of Commissioners.

('70 Code, 2009 S-5 Supplement, § 2-21)

***Cross-reference:*** *Powers and duties of Town Clerk, see* ***Charter, Sec. 15****; Town Clerk to keep records of Board of Commissioners and maintain a journal of its proceedings, see Charter, Sec. 15.*

### *SECTION 2-41. - TOWN MANAGER.*

(a) Neither the Mayor nor any member of the Board of Commissioners shall be eligible for appointment to the office of Town Manager. ('70 Code, 2009 S-5 Supplement, § 2-19)

(b) The Board of Commissioners may provide that any other office of the town government be combined with that of the Town Manager and that the Town Manager perform the duties of such other office. ('70 Code, 2009 S-5 Supplement, § 2-20); (Ord. passed 5-2-67)

(c) The Town Manager shall also fulfill the duties of Budget Officer, as set forth more particularly in G.S. § 159-9.

***Cross-reference:*** *Appointment, removal, status, responsibility, powers, duties, and compensation of Town Manager, see Local Acts, Sess. Laws 1969, Ch. 212*

### *SECTION 2-42. - TOWN TREASURER/FINANCE OFFICER.*

(a) The Town Treasurer/Finance Officer shall receive from all persons to whom money, checks, drafts, evidence of debt, and instruments of like character due to the town have been paid and he shall give his receipts therefor. All money and negotiable instruments due and payable in money so received by the Town Treasurer/Finance Officer shall be deposited by him in the town depository promptly, and he shall ascertain from time to time that such deposits are adequately secured as provided by law. All money and other assets received by the Town Treasurer/Finance Officer shall be allocated by the Town Treasurer/Finance Officer on his books to the funds and sub funds to which they properly belong.

(b) The Town Treasurer/Finance Officer shall furnish to the Board of Commissioners, at the regular meeting in each month, an itemized statement of his receipts for the month immediately preceding and the sources from which derived, and his disbursements with vouchers therefor; and he shall provide such reports to the Town Manager and the Town Accountant as they may require to enable them to perform their duties properly and fully.

(c) The Town Treasurer/Finance Officer shall maintain an inventory of town property, which shall show the insurance thereon, the amount and due date of premiums payable on such insurance, and the rentals receivable from any such property.

('70 Code, 2009 S-5 Supplement, § 2-22) (Ord. passed 1912; Am. Ord. 1, passed 7-1-59)

***Cross-reference:*** *Duties of Town Treasurer, see Charter, Sec. 19*

### *SECTION 2-43. – 2-45. - RESERVED.*

## CHAPTER 3 – CODE OF ETHICS

### *SECTION 2-46. – PURPOSE.*

The purpose of this Code of Ethics is to establish, in keeping with the General Statutes of the State of North Carolina, guidelines for an ethical standard of conduct for the Red Springs Board of Commissioners (the "Board") 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.

***State Law Reference—*** *Ethics Codes and Education Program, G.S. § 160A-86.*

### *SECTION 2-47. – GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS.*

a) The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
b) Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
c) Board members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.
d) Board members must always remain aware that at various times they play different roles:
    a. As advocates, who strive to advance the legitimate needs of their citizens;
    b. As legislators, who balance the public interest and private rights in considering and enacting decisions, ordinances, and resolutions; and
    c. As decision-makers, who arrive at fair and impartial quasi-judicial and administrative determinations.
e) Board members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.
f) Board members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

### *SECTION 2-48. – OBEY THE LAW.*

Board members should obey all laws applicable to their official actions as members of the Board. Board members should be guided by the spirit as well as the letter of the law in whatever they do.

### *SECTION 2-49. – ACT WITH CIVILITY.*

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 one disagrees with that Board member on a question of policy (and not because of the Board member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

### *SECTION 2-50. – MAINTAIN INTEGRITY AND INDEPENDENCE.*

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

a) Adhering firmly to a code of sound values;
b) Behaving consistently and with respect toward everyone with whom they interact;
c) Exhibiting trustworthiness;
d) Living as if they are on duty as elected officials regardless of where they are or what they [are] doing;
e) Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner;

f) Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others;
g) In a quasi-judicial matter, disclosing contacts and information about issues that they receive outside of public meetings to the extent required by law;
h) In a quasi-judicial matter, refraining from seeking or receiving information about the matter outside of the quasi-judicial proceeding itself to the extent required by law;
i) Treating other Board members and the public with respect and honoring the opinions of others even when the Board members disagree with those opinions;
j) Not reaching conclusions on issues until all sides have been heard;
k) Showing respect for their office and not behaving in ways that reflect badly on those in office;
l) Recognizing that they are part of a larger group and acting accordingly; and
m) 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.

### *SECTION 2-51. – AVOID IMPROPER ACTS.*

a) 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.
b) 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 Town's attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

### *SECTION 2-52. – FAITHFULLY PERFORM THE DUTIES OF OFFICE.*

Board members should faithfully perform the duties of their office. 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. Board members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, and in quasi-judicial matters they should be mindful of the need not to engage in communications outside of meetings. They should demand full accountability from those over whom the Board has authority. 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.

### *SECTION 2-53. – CONDUCT THE BUSINESS OF GOVERNMENT IN AN OPEN AND PUBLIC MANNER.*

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 remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to Board members or their employees. In order to ensure strict compliance with the laws concerning openness, Board members should make clear that an

environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the Board are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

### *SECTIONS 2-54. - 2-55. – RESERVED.*

# CHAPTER 4 – PERSONNEL

## ARTICLE 1. GENERAL PROVISIONS

### *SECTIONS 2-56. – PURPOSE.*

The purpose of this chapter is to establish a personnel system, under the direction of the town manager which will provide for the recruitment, selection, development and maintenance of an effective and responsible work force. This chapter is established under the authority of GS Chapter 160A, Article 7, Part 4.

### *SECTIONS 2-57. – COVERAGE.*

This chapter shall cover all regular and probationary employees except as specifically exempted. Temporary employees will be exempted except in sections where specifically included. The mayor, members of town council and members of advisory boards and commissions are not employees of the town but are covered by certain sections of this chapter where specifically included.

### *SECTIONS 2-58. – DEFINITIONS.*

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

***Completed month:*** Any month in which an employee is not on nonpaid status for four or more scheduled workdays of that month.

***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:*** A person who is regularly scheduled to work the number of hours in a standard workweek.

***Part-time employee:*** A person who is regularly scheduled to work less than the number of hours in a standard workweek.

***Probationary employee:*** A person appointed to serve in a position who has not yet completed the probationary period.

*Regular employee:* A person appointed to serve in a position who has successfully completed the probationary period.

***Temporary employee:*** A person appointed to serve in a position for a definite duration.

### *SECTIONS 2-59. – MERIT PRINCIPLE*

All appointments, promotions and other personnel actions shall be made solely on the basis of merit and fitness.

### *SECTIONS 2-60. – RESPONSIBILITY OF THE TOWN BOARD.*

The town board shall establish personnel policies, including the classification and pay plan, and shall make and confirm appointments when so specified by law.

### *SECTIONS 2-61. – RESPONSIBILITY OF TOWN MANAGER.*

(a) The town manager shall administer and direct the personnel policies as established by town board. The town manager shall have the authority to appoint, suspend and remove all town employees except those whose appointment is otherwise provided by law.

(b) The town manager shall:

(1) Recommend amendments and revisions of the personnel policies to the town board;

(2) Recommend amendments and revisions of the position classification plan to the town board;

(3) Recommend amendments and revisions of the pay plan to the town board;

(4) Determine administrative, professional and managerial positions to be excluded from entitlement to overtime compensation;

(5) Develop and administer recruiting programs in order to obtain an adequate supply of competent applicants to meet the needs of the town and provide for equal opportunity employment;

(6) Develop and coordinate training and educational programs for employees;

(7) Maintain a complete system of personnel files and records;

(8) Investigate periodically the operation and effect of the provisions of the personnel policies; and

(9) Perform such other duties as may be assigned by the town board.

### *SECTION 2-62. – PROMULGATION OF PERSONNEL REGULATIONS PERMITTED.*

The Town Manager may promulgate personnel rules and regulations, not inconsistent with state law, the Town Charter, or this code, governing such matters as vacations, sick leave, working hours, compensatory time, time off for overtime and holiday work, discipline, position classification, and subjects of a similar nature. Such rules and regulations, when approved by the Board of Commissioners and placed on file in the office of the Town Clerk, shall be binding on all personnel to whom they are made applicable.

('70 Code, 2009 S-5 Supplement, § 2-32)

### *SECTION 2-63. – POLITICAL ACTIVITY RESTRICTED.*

All appointive officers and all employees of the town shall refrain from taking an active part in any political campaign or making statements favoring or opposing any candidate or issue to be voted upon during working hours.

('70 Code, 2009 S-5 Supplement, § 2-28) (Ord., passed 4-4-67)

### *SECTION 2-64. – SERVICE IN NATIOAL GUARD AND ARMED FORCES.*

(a) Appointive officers and employees.

(1) Appointive officers and employees of the town who are members of the National Guard or any reserve component of the armed forces of the United States shall be allowed time off from their town duties, without prejudice to their seniority, status, or earned vacation time, during such periods as they may be on active duty or active duty for training under competent state or federal orders; provided, that time served in the armed forces shall not count in determining vacation time to be allowed by the town.

(2) Appointive officers and employees of the town who are members of the National Guard or any reserve component of the armed forces of the United States who are on active duty for training only, under competent state or federal orders, shall be paid by the town the difference, if any, between their armed forces pay and their higher town pay; provided, that no person shall be paid by the town for a period in excess of two weeks per year by reason of division (A)(2).

('70 Code, 2009 S-5 Supplement, § 2-29) (Ord., passed 8-2-60; Am. Ord. passed 7-2-63)

(b) Elective officers. The Board of Commissioners may grant time off to any elective officer of the town who, by competent federal or state orders, is absent from his or her town duties while on active duty or active duty for training with any component of the armed forces of the United States, including the National Guard, and for the period of such absence may designate any qualified citizen of the town as the acting official in place of the absentee, and such acting official shall have all the authority, duties, perquisites, and emoluments of his principal; provided, that this section shall not operate to extend the term of office of any person beyond the period for which he or she was elected.

('70 Code, 2009 S-5 Supplement, § 2-31)

### *SECTION 2-65. – SERVICE TO COUNTRY DURING HOSTILITIES OR NATIONAL EMERGENCIES.*

Any appointive officer or employee of the town who, during any period of national emergency declared by the Congress or proclaimed by the President or during any period of war or hostilities in which the United States is a belligerent, leaves the service of the town to serve in any of the armed forces of the United States or any organization such as, for example, the American Red Cross, which provides services in the field to the armed forces of the United States, shall be allowed time off from his town duties, without prejudice to his seniority, status, or earned vacation time, during his period of service in one of the armed forces or other organization as aforesaid while such state of national emergency or period of war or belligerency continues and until three months following the first opportunity for him or her to obtain relief from active duty after the termination of the national emergency or period of war or belligerency; provided, that no person shall be entitled thereby to reinstatement in the town service who is dishonorably discharged from the armed forces, and no vacation time or town pay shall accrue during such period of service to the United States.

('70 Code, 2009 S-5 Supplement, § 2-30)

### *SECTION 2-66. – RESIDENCY OF EMPLOYEES.*

(a) Pursuant to authority contained in G.S. § 160A-281, police officers may reside in places other than within the town limits, provided approval for such domicile privilege is obtained from the Town Manager.

(b) The Town Manager may grant authority to such other employees to reside in places which are outside the town limits, as he or she deems appropriate and desirable.

(Res.72-004, passed 2-1-72)

### *SECTION 2-67. – PUBLIC COURTESY AND CONDUCT.*

(a) Town officers and employees shall be courteous in their official transactions with the public, and they shall conduct themselves in the performance of their official duties so as not to knowingly deprive any person, at the time and under the circumstances then and there existing, of any lawful right or benefit to which such person may be entitled. Any person who feels aggrieved by the conduct of any town officer or employee in violation of this division is hereby invited to bring the matter to the attention of such officer's or employee's department head or to the Town Manager, without prejudice to any other recourse to which such aggrieved person may be entitled.

(b) Members of the public, in turn, should be courteous in their transactions with town officers and employees, and it shall be unlawful for any person to knowingly taunt, deride, jeer or otherwise debase, whether by act, word or gesture, any town officer or employee at any time or place while such town officer or employee is lawfully engaged in the performance of any official duty.

('70 Code, 2009 S-5 Supplement, § 14-26)

### *SECTION 2-68. – BOND REQUIRED OF CERTAIN TOWN OFFICERS, EMPLOYEES, AND AGENTS*

(a) Every officer, employee, or agent of the town who handles or has custody of more than a cash value set by the Board of Commissioners of the town's funds at any time shall, before assuming his duties as such, be required pursuant to G.S. § 159-29, to enter into bond with good sureties, in an amount sufficient to protect the town, payable to the town, and conditioned upon the faithful performance of his duties and a true accounting for all funds of the town which may come into his hands, custody, or control, which bond shall be approved by the Mayor and Board of Commissioners and deposited with the town, except that such bond of any employee may, in the discretion of the governing body, be conditioned only upon a true accounting for funds of the town.

(b) The bond of the Finance Officer shall be more than a cash value set by the Board of Commissioners; the bond of the Town Treasurer shall be in the amount of more than a cash value set by the Board of Commissioners; the bond of the Assistant Town Treasurer shall be in the amount of more than a cash value set by the Board of Commissioners; the bond of the Tax Collector shall be in the amount of more than a cash value set by the Board of Commissioners; and the amount of the Tax Collector's shall be as established by the town. Bond amounts will be established in consultation with the Town's insurance carrier. All other persons required to be bonded under the provisions of division (a) of this section shall be bonded under a system of blanket faithful performance or honesty bonding in the amount of more than a cash value set by the Board of Commissioners.

(c) Every officer, employee, or agent of the town who, in the discharge of his official duties is authorized to carry a firearm, shall, before assuming his duties as such, be required to enter into bond with good sureties, in the amount of more than a cash value set by the Board of Commissioners, payable to the town and conditioned upon payment of any judgment or decree for damages rendered against him for

unlawful or negligent use of such firearm, which bond shall be approved by the Mayor and Board of Commissioners and deposited with the town.

(d) All bonds required by this section shall be approved as to form by the Town Attorney, and the sureties thereon shall be bonding or casualty companies licensed to do business in the state.

('70 Code, 2009 S-5 Supplement, § 2-8) (Ord., passed 10-4-60)

***Cross-reference:*** *Authority of Board of Commissioners to require bonds of town officers and employees, see Charter, Sec.* 9.

***Statutory reference:*** *Bonds, see G.S. § 159-29*

### *SECTION 2-69. – CIVIL LIABILITY; PURCHASE OF INSURANCE*

As permitted under G.S. § 160A-485, the town is authorized to purchase error and omission insurance for both employees and elected officials.

### *SECTION 2-70. – 2-80. – RESERVED*

## ARTICLE 2 – COMPENSATION AND ALLOWANCES

### *SECTION 2-81. - COMPENSATION*

Town officers and employees shall be paid such compensation as shall be provided from time to time by ordinance, subject to applicable provisions of state law, the Town Charter, and this code.

('70 Code, 2009 S-5 Supplement, § 2-33)

***Cross-reference:*** *Ordinances fixing or changing salary of Mayor or Commissioners during current term of office, see Charter; Salary of officers and employees, see Charter.*

### *SECTION 2-82. – REIMBURSEMENT FOR EXPENSES INCURRED*

(a) Town officers and employees who, in the course of their official duties, necessarily incur reasonable expenses, shall be reimbursed therefor upon voucher approved by their immediate supervisors and the Town Manager. Such vouchers shall be substantiated by receipted bills or other evidence of expense incurred, except as to tips, parking meter and pay telephone deposits and other items for which no bill is rendered or receipt given.

(b) When, of necessity or upon authority of his immediate supervisor, a town officer or employee uses a privately-owned vehicle on official town business, he or she shall be allowed an amount per mile as established by the appropriate town official necessarily traveled while on official town business.

(c) Reimbursement for expenses such as hotel or motel rooms, garage space, meals, hospitality, and other items shall be within such daily limits as may be prescribed in advance by the Town Manager.

('70 Code, 2009 S-5 Supplement, § 2-34)

### *SECTION 2-83. – CASH ADVANCEMENTS*

The Town Manager may authorize advancement of cash in reasonable amounts to town personnel who, under the provisions of **§ 2-82** are required to incur expenses in the discharge of their official duties. All such cash advancements shall be accounted for on substantiated vouchers as provided in **§2-82** and any excess over expenditures shall be paid promptly to the Town Treasurer.

('70 Code, 2009 S-5 Supplement, § 2-35)

### *SECTIONS 2-84. – 2.100. – RESERVED*

## ARTICLE 3 – PERSONNEL ORDINANCE

### *SECTION 2-101. – ADOPTION BY REFERENCE*

The personnel ordinance adopted by the Board of Commissioners May 2, 1972, as amended, is incorporated by reference as part of this code of ordinances.

### *SECTIONS 2-102. – 2-105. – RESERVED*

## CHAPTER 5 – MUNICIPAL ELECTIONS

### *SECTION 2-106. – ABSENTEE VOTING IN MUNICIPAL ELECTIONS OR REFERENDUMS*

(a) Absentee voting shall be permitted for municipal elections or referendums in the town.

(b) The Town Manager is authorized and directed to file a copy of this resolution with the State Board of Elections and the County Board of Elections upon its adoption.

(Res. 83-62, passed 9-6-83)

### *SECTION 2-107. – NONPARTISAN PLURALITY ELECTIONS*

The Mayor is authorized and directed under authority of G.S. § 163-71 to enter into a contractual agreement with the County Board of Commissioners and Elections to conduct all future municipal elections after May 1, 1973 as nonpartisan plurality elections so as to conform to the requirements of G.S. § 163-285.

(Res. 73-004, passed 2-22-73)

### *SECTION 2-108. – USE OF COUNTY PRECINCT BOOKS*

The County Board of Elections may, in its sole discretion, deliver to the Municipal Board of Elections of this town, the county precinct registration books for each precinct fully or partially located in this town, and these books shall be used in conducting the municipal elections.

(Res. 73-006, passed 3-6-73)

### *SECTION 2-109. – 2-120. – RESERVED*

# CHAPTER 6 – ADMINISTRATIVE PROCEDURES

## SECTION 2-121. – AUTHORITY TO CLOSE TOWN OFFICES ON CERTAIN AFTERNOONS

When it appears to the Board of Commissioners that a majority of the merchants of the town are closing their places of business on certain afternoons during any period of the year, the Board of Commissioners may by resolution or motion duly offered and passed, direct that the town hall and town offices be closed for business on such afternoons during such period.

('70 Code, 2009 S-5 Supplement, § 2-1) (Ord. passed 6-5-51; Am. Ord. passed 4-7-53; Am. Ord. passed 3-2-54; Am. Ord. passed 1-3-67)

## SECTION 2-122. – DISPOSING OF SURPLUS PERSONAL PROPERTY

(a) Pursuant to G.S. 160A-266(c), the town manager or his designee is hereby authorized to dispose of any property declared as surplus personal property by the Board of Commissioners owned by the town.

(b) The town manager or designee may dispose of any such surplus personal property by any means which he judges reasonably calculated to yield the highest attainable sale price in money or other consideration, including, but not limited to, the methods of sale provided in G.S. Ch. 160A, Art. 12. Such sale may be public or private, and with or without notice and a minimum waiting period.

(c) The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the town if greater value may be obtained in that manner, and the town manager or designee is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the town manager or designee may retain the property, obtain any reasonably available salvage value, or cause the property to be disposed of as waste material. No surplus property may be donated to any individual or organization, except by resolution of the town council.

(d) The town manager or designee shall keep a record of all property sold under authority of this section, and such record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanges were made, and the amount of money or other considerations received for each sale or exchange.

(e) The town manager or designee shall submit a report to the town council on a monthly basis, listing all items sold under the provisions of this section, the person/entity to whom the items were sold, and the amount of each sale. If sold by auction, the name of the auction company will suffice as the entity/person to whom the item was sold.

**State Law reference—** Power to dispose of property, G.S. 160A-11.

## SECTION 2-123. – USE BY CITIZENS OF CERTAIN TOWN EQUIPMENT AND OPERATING PERSONNEL DISALLOWED.

It shall be the policy of the town to not permit the use of town equipment by anyone other than a town employee unless by explicit permission of the Board of Commissioners.

## SECTION 2-125. – ACCESS TO PUBLIC RECORDS AND PROPERTY

No person shall remove any record, document, book, or other paper belonging to the town, or any town property, from the office or place where it properly belongs, without authority of the custodian thereof, who may require a receipt therefor, except on written order from the Board of Commissioners, the Mayor, the Town Manager, or a court of

competent jurisdiction. All public records and accounts shall be available to the public for inspection and use during all regular business hours in the offices where maintained.

('70 Code, 2009 S-5 Supplement, § 2-5)
***Cross-reference:*** *All town records and accounts to be open to public unless disclosure would defeat purpose thereof, see Charter, Sec. 26.*

### *SECTION 2-126. – AUTHORITY OF TOWN OFFICERS TO ADMINISTER OATHS AND TAKE ACKNOWLEDGEMENTS.*

Whenever, for any purpose stated in this code or other ordinance, an instrument in writing is required to be verified under oath or acknowledge as to signature, the town officer to whom such instrument is to be furnished or in whose office it is to be filed shall have authority to administer such oath or take such acknowledgment; and where a verbal oath is required, the appropriate town officer shall have authority to administer such oath.

### *SECTION 2-127. – CONFISCATED PROPERTY.*

Property confiscated by town officers in the lawful exercise of official duty shall be turned in to the Chief of Police, to be stored in the town hall or other place designated by the Board of Commissioners or the Town Manager, and such property shall be disposed of only as provided by law, this Code or other ordinance, or as provided by order of a court of competent jurisdiction.

('70 Code, 2009 S-5 Supplement, § 2-7) (Ord., passed 4-14-48)

### *SECTION 2-128. – 2-140. – RESERVED.*

## CHAPTER 7. – TOWN FISCAL POLICIES

### *SECTION 2-141. TOWN DEPOSITORY.*

(a) Town depositories shall be designated as such by ordinance. When at any time there is more than one town depository, the Board of Commissioners shall, by ordinance, specify which of the several town funds shall be maintained on deposit in each town depository, and no single fund shall be divided for deposit in more than one depository except for compelling reasons stated in the ordinance.

(b) The Board of Commissioners, for the best interests of the town, shall from time to time, but not less frequently than biennially, review the situation as to town depositories, and may make such changes as prudence may dictate.

('70 Code, 2009 S-5 Supplement, § 2-42) (Ord. passed 7-1-59; Am. Ord. passed 7-5-60; Am. Ord. passed 9-1-64; Am. Ord. passed 10-6-64)

***State Law reference:*** *Selection of depositories, see G.S. § 159-31*

### *SECTION 2-142. - SIGNATURES ON CHECKS; EXCEPTIONS.*

Checks drawn on town funds shall require two signatures. Signatures shall include either the Mayor or the Town Manager together with the signature of Town Treasurer/Finance Officer.

('70 Code, 2009 S-5 Supplement, § 2-43) (Ord., passed 7-1-59; Am. Ord. passed 7-5-67)

***State Law reference:*** *Signing checks, see G.S. § 159-25(b)*

### *SECTION 2-143. – PURCHASE ORDERS.*

Before any order is given for items to be purchased for the town by any town officer or employee, a purchase order must first be obtained from the town manager.

**State Law reference—** Regulation of contracts, G.S. § 160A-16 et seq.

### *SECTION 2-144. – DEPOSITS OF MONEY RECEIVED FOR TOWN.*

The town treasurer shall deposit to the credit of the town, in such banks as may be designated by the town board as depositories, all money received by him and belonging to the town, on the same day he shall receive such money or on the following day, unless the following day is a Sunday or legal holiday, in which event he shall deposit such money the first day thereafter which is not a Sunday or a legal holiday.

### *SECTION 2-145. – CAPITAL RESERVE FUND.*

(a) Pursuant to the Municipal Capital Reserve Act as set forth in G.S. §§ 159-18 et seq., a Capital Reserve Fund is hereby authorized and declared to be established for the town.

(b) The Capital Reserve Fund shall consist of money derived from unappropriated surplus revenues and unencumbered balances, being receipts from revenues from the sale of water and electric current of the amount of not less than $10,000.

('70 Code, 2009 S-5 Supplement, § 2-45) (Ord., passed 9-7-54)

### *SECTION 2-146. – TOWN OFFICIALS CONTRACTING TO PROVIDE SERVICES, FACILITIES, OR SUPPLIES.*

The following conditions are applicable to meet the requirements of G.S. § 14-234, as amended.

(a) The contract or undertaking, or series of contracts or undertakings, must be approved in advance by a specific resolution of the Board of Commissioners adopted in an open and public meeting, and recorded in its minutes.

(b) The amount of the contract or undertaking may not exceed the amount set by the Board of Commissioners within a 12-month period.

(c) The official entering into the contract or undertaking with the municipality may not in his official capacity participate in any way or vote upon the resolution, contract, or undertaking.

(d) The total amounts of contracts or undertakings with each such official must be specifically noted in the audited annual financial statement of the municipality.

(a) The Board of Commissioners must have posted in a conspicuous place in the town hall a list of all such officials with whom any contract or undertakings have been made, briefly describing the subject matter and showing the total amount of each; the list must cover the preceding 12 calendar months and must be brought up to date at least quarterly.

### *SECTION 2-147. – CONSOLIDATION OF FUNCTIONS*

The Board of Commissioners may provide for the consolidation of any two (2) or more positions of Town Clerk, Town Tax Collector and Town Finance Officer, or may assign the functions of any one or more of these positions to the holder or holders of any other of these positions, subject to the Local Government Budget and Fiscal Control Act.

***State Law Reference—*** Authority to consolidate, etc., offices, G.S. § 160A-146.

### *SECTIONS 2-148. – 2-160. – RESERVED.*

# TITLE 3. – BUILDING AND BUILDING REGULATIONS

## CHAPTER 1. GENERAL

### *SECTION 3-1. - PURPOSE.*

The regulations included in this Title shall regulate the construction, modification, or any alteration of residential and non-residential buildings and structures.

### *SECTION 3-2. - TERRITORY.*

Application of this Title shall cover the geographic area within the Town of Red Springs and the extraterritorial jurisdiction of the Town.

(See *Charter, Section 3*)

### *SECTION 3-3. – 3-5. - RESERVED.*

## CHAPTER 2. INSPECTIONS DEPARTMENT

### *SECTION 3-6. - ORGANIZATION.*

There is hereby established a department to be called the "inspections department".

(a) The Inspection Department shall consist of a Building Inspector, a Plumbing Inspector, a Mechanical Inspector, an Electrical Inspector, and such other inspectors or deputy or assistant inspectors as may be authorized by the Board of Commissioners. The Board of Commissioners may, in its discretion, designate a Department Head.

(b) On and after the applicable date set forth in the schedule in G.S. § 160A-411, no town shall employ an inspector to enforce the state building code as a member of the town Inspection Department who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to his qualifications to hold such position:

i. A probationary certificate, valid for one year only;

ii. (2) A standard certificate; or

iii. A limited certificate which shall be valid only as an authorization for him to continue in the position held on the date specified in G.S. § 143-151.13(c) and which shall become invalid if he does not successfully complete in-service training specified by the Qualification Board within the period specified in G.S. § 143-151.13(c).

(c) An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Qualification Board of a standard certificate or probationary certificate appropriate for such new position.(G.S. § 160A-411.1)

('70 Code, 2009 S-5 Supplement)

**State Law reference—** Building inspection, G.S 160A-411 et seq.

### *SECTION 3-7. – DUTIES OF DEPARTMENT AND INSPECTORS.*

It shall be the duty of the inspection director to enforce the provisions of this chapter, and the inspection director or any duly authorized representative, may enter any building, structure or premises at any time to perform any duty imposed by this chapter.

**State Law reference—** Duties and responsibilities of inspectors, G.S. 160A-412.

### *SECTION 3-8. – INSPECTIONS; INSPECTION PROCEDURE.*

(a) *Generally.* The inspection department shall inspect all buildings and structures and work therein for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with this chapter. When deemed necessary by the appropriate inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved or recognized inspection organizations; provided, no approval shall be based upon reports of such organizations unless the reports are in writing and certified by a responsible officer of such organization. All holders of permits, or their agents, shall notify the inspection department and the appropriate inspector at each of the following stages of construction so that approval may be given before work is continued:

(1) *Foundation inspection.* To be made after trenches are excavated and the necessary reinforcement and forms are in place, and before concrete is placed. Drilled footings, piles and similar types of foundations shall be inspected as installed.

(2) *Foundation wall inspection.* Where crawl space occurs, the foundation wall and spot piers shall be inspected prior to the incorporation of the flooring system.

(3) *Framing inspection.* To be made after all structural framing is in place and all roughing-in of the mechanical, plumbing, and electrical has been installed, after all fire blocking, chimneys, bracing and vents are installed, but before any of the structure is enclosed or covered. Poured in place concrete structural elements shall be inspected before each pour of any structural member.

(4) *Final inspection.* To be made after building or structure has all doors hung, fixtures set and ready for occupancy, but before the building is occupied.

(b) *Calls for inspection.* Requests for inspections shall be made to the office of the inspection department or to the appropriate inspector. The inspection department shall make inspections as soon as practicable after the request is made therefor, provided such work is ready for inspection at the time the request is made. Reinspections may be made at the convenience of the inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. Equipment that is functioning or operating shall be considered ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a sticker or notice posted on the building or given to the permit holder or his agent. Failure to call for inspections or proceeding without approval of each stage of construction shall be deemed a violation of this chapter.

(c) *Street or alley lines.* Where the applicant for a permit proposes to erect any building or structure on the line of any street, alley or other public place, he shall secure a survey of the line of such street, alley or other public place, adjacent to the property upon which such building or structure is to be erected before proceeding with construction of such building or structure. It shall be the duty of the appropriate inspector to see that the building does not encroach upon such street, alley or other public place.

(d) *Certificate of occupancy.* The inspection department shall issue a certificate of occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of this chapter, the town zoning regulations and all other pertinent regulations for the occupancy intended.

*Duties and responsibilities, see G.S. § 160A-412*
*Failure to perform, see G.S. § 160A-416*

### *SECTION 3-9. – OVERSIGHT NOT TO LEGALIZE VIOLATION.*

No oversight or dereliction of duty on the part of any inspector or other official or employee of the inspection department shall be deemed to legalize the violation of any provision of this chapter or any provision of any related law.

### *SECTION 3-10. – POWER OF INSPECTION OFFICIALS.*

(a) *Authority.* Inspectors are hereby authorized, empowered and directed to enforce all provisions of this chapter.

(b) *Right of entry.* Inspectors shall have the right of entry on any premises within the limits of the town at reasonable hours for the purpose of inspection or enforcement of the requirements of this chapter and related regulatory laws upon presentation of proper credentials.

(c) *Stop orders.* Stop orders may be issued by the inspection director or his designee in accordance with G.S. 160A-421.

***State Law Reference—*** *Stop orders, G.S. 160A-421.*

### *SECTION 3-11. – CONFLICTS OF INTEREST.*

No member of the Inspection Department shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the town's jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he is the owner of such building. No member of the Inspection Department shall engage in any work which is inconsistent with his duties or with the interests of the town.

('70 Code, 2009 S-5 Supplement)
***State Law Reference:*** *(G.S. § 160A-415)*

### *SECTIONS 3-12. – 3-15. – RESERVED.*

## CHAPTER 3. BUILDING REGULATIONS

### *SECTION 3-16. – SCOPE OF CHAPTER.*

The provisions of this chapter and of the regulatory codes herein adopted shall apply to the following:

(a) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use, and occupancy of every building or structure or any appurtenances connected or attached to such building or structure.
(b) The installation, erection, alteration, repair, use, and maintenance of plumbing systems, consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances thereof.
(c) The installation, erection, alteration, repair, use, and maintenance of mechanical systems, consisting of heating, ventilating, air conditioning and refrigeration systems, fuel burning equipment, and appurtenances thereof.
(d) The installation, erection, alteration, repair, use, and maintenance of electrical systems and appurtenances thereof.

('70 Code, 2009 S-5 Supplement)

### *SECTION 3-17. – BUILDING CODE ADOPTED BY REFERENCE.*

The most current edition of the North Carolina State Building Code, Volume I, General Construction, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference and shall be used by the Town as the basis of authority to regulate building construction.

('70 Code, 2009 S-5 Supplement)

### *SECTION 3-18. – PLUMBING CODE ADOPTED BY REFERENCE.*

The most current edition of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing), as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the plumbing code for the town.
('70 Code, 2009 S-5 Supplement)

### *SECTION 3-19. – HEATING CODE ADOPTED BY REFERENCE.*

The most current edition of the North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating), as adopted and published by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the heating code for the town.

('70 Code, 2009 S-5 Supplement)

### *SECTION 3-20. – ELECTRICAL CODE ADOPTED BY REFERENCE.*

The most current edition of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical), adopting by reference the National Electrical Code of the National Fire Protection Association as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the electrical code for the town.

('70 Code, 2009 S-5 Supplement)

### *SECTION 3-21. – RESIDENTIAL CODE ADOPTED BY REFERENCE.*

The most current edition of the North Carolina Uniform Residential Building Code, as adopted by the North Carolina Building Inspectors Association and as published by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth herein as the residential building code for one- and two-family residential buildings in the town.

('70 Code, 2009 S-5 Supplement)

### SECTION 3-22. – NONRESIDENTIAL CODE ADOPTED BY REFERENCE.

Adopted by reference is the Nonresidential Code as promulgated by the North Carolina General Assembly and codified as North Carolina General Statute §160A-439.

*(NC Gen Stat. §160A-439)*

### SECTION 3-23. – AMENDMENTS TO CODE.

Amendments to the regulatory codes adopted by reference in this subchapter, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the town at the time such amendments are filed with the Town Clerk.
('70 Code, 2009 S-5 Supplement)

### SECTION 3-24. – COMPLIANCE WITH CODES.

a) All buildings or structures which are constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished, or moved shall conform to the requirements, minimum standards, and other provisions of either the North Carolina State Building Code, General Construction Volume I or the North Carolina Uniform Residential Building Code, whichever is applicable, or of both if both are applicable.

b) Every building or structure intended for human habitation, occupancy, or use shall have plumbing, plumbing systems, or plumbing fixtures installed, constructed, altered, extended, repaired, or reconstructed in accordance with the minimum standards, requirements, and other provisions of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing).

c) All mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel burning equipment and appurtenances shall be installed, erected, altered, repaired, used, and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating).

d) All electrical wiring, installations, and appurtenances shall be erected, altered, repaired, used, and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical).

('70 Code, 2009 S-5 Supplement)

### SECTION 3-25. – COPIES FILED WITH THE TOWN CLERK.

An official copy of each regulatory code adopted in this subchapter, and official copies of all amendments thereto, shall be kept on file in the office of the Town Clerk. Such copies shall be the official copies of the codes and the amendments.

('70 Code, 2009 S-5 Supplement)

### SECTION 3-26. – FIRE DISTRICTS.

a) In compliance with G.S. § 160A-435 through 160A-437, the town is divided into two parts with reference to buildings and the safety of buildings.

(1) District 1 lies within the fire limits, which includes the principal business portion of the town and is outlined on the official map of the town which is on file in the office of the Town Clerk.
(2) District 2 consists of all portions of the town not included in District 1.

b) In compliance with G.S. § 160A-436, no frame or wooden building shall be hereafter erected, altered, repaired, or removed within the fire limits as established or defined, except upon the permit of the Building Inspector, approved by the State Insurance Commissioner.

('70 Code, 2009 S-5 Supplement)

### *SECTION 3-27. – REGISTRATION OF CONTRACTORS; BOND.*

(a) Every person carrying on the business of building contractor, plumbing contractor, heating-air conditioning contractor, or electrical contractor within the town shall register at the office of the Inspection Department, giving his name and place of business.

(b) Every person required to register at the office of the Inspection Department under division (a) above shall also give a good and sufficient bond in the amount set by the Board of Commissioners to be approved by the Town Attorney, conditioned upon faithful performance of duty in doing any work which he may have contracted to do, and shall indemnify the town against loss in any manner whatsoever for any unskilled or negligent work or conduct in the performance of the duties imposed by the provisions of this chapter or any regulatory code herein adopted, or any damage to any utility lines, streets, or sidewalks in the town, or for the use of defective or improper material in such work, or for any damage which may accrue to any person by reason of any default of the contract, or for the payment of any inspection or other fees required by this chapter.

('70 Code, 2009 S-5 Supplement)

### *SECTION 3-28. – 3-35. – RESERVED.*

## CHAPTER 4. PERMITS

### *SECTION 3-36. – PERMITS REQUIRED; APPLICATION.*

(a) No person shall commence or proceed with the construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure; the installation, extension, or general repair of any plumbing system; the installation, extension, alteration, or general repair of any heating or cooling equipment system; or the installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, without first securing from the Inspection Department any and all permits required by the State Building Code and any other state or local laws applicable to the work.

(b) A permit shall be in writing and shall contain a provision that the work done shall comply with the state building code and all other applicable state and local laws. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if state law requires that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the state seal of a registered architect or of a registered engineer. When any provision of state law or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

(c) No permit issued under G.S. §§ 143-136 through 143-143.2 or §§ 143-151.26 through 143-151.36 shall be required for any construction, installation, repair, replacement, or alteration costing the amount set by the

Board of Commissioners in any single-family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement, or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a misdemeanor.

('70 Code, 2009 S-5 Supplement)
***State Law Reference*** *- G.S. § 160A-417)*

### *SECTION 3-37. – PLANS AND SPECIFICATIONS.*

Detailed plans and specifications shall accompany each application for a permit when the estimated total cost of the building or structure is in excess of the amount set by the Board of Commissioners and for any other building or structure where plans and specifications are deemed necessary by the appropriate inspector in order for him to determine whether the proposed work complies with the appropriate regulatory codes. Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this chapter and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work until all authorized operations have been completed and approved by the appropriate inspector.

('70 Code, 2009 S-5 Supplement)

### *SECTION 3-38. – ISSUANCE; LIMITATIONS.*

(A) Issuance. When proper application for a permit has been made and the appropriate inspector is satisfied that the application and the proposed work comply with the provisions of this chapter and the appropriate regulatory codes, he shall issue such permit, upon payment of the proper fee provided in **§3-39.**

(B) Limitations on issuance.

(1) No building permit shall be issued for any building or structure, the estimated total cost of which is more than the amount set by the Board of Commissioners, unless the work is to be performed by a licensed general contractor.

(2) If state law requires that plans for certain types of work be prepared only by a registered architect or registered engineer, no building permit shall be issued for any building or structure, unless the plans and specifications bear the state seal of a registered architect or a registered engineer.

(3) Where any provision of the General Statutes of North Carolina or of any provision of this code or other ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for such work shall be issued, unless it is to be performed by such licensed specialty contractor.

(4) Where detailed plans and specifications are required under this chapter, no building permit shall be issued, unless such plans and specifications have been provided.

('70 Code, 2009 S-5 Supplement)

### *SECTION 3-39. – FEES.*

Fees for permits shall be based upon the total estimated cost of the proposed work, including all subcontracts, if any, but in no case shall the total estimated cost be less than the market value of similar completed work in the town, as determined by the appropriate inspector. Permit fees shall be as established from time to time by the Town Manager in consultation with the Building Inspector and the Plumbing Inspector. Schedules of such fees shall be maintained on file in the offices of the appropriate inspectors, and the Town Clerk.
('70 Code, 2009 S-5 Supplement)

### *SECTION 3-40. – TIME LIMITATIONS ON VALIDITY.*

All permits issued under this chapter shall expire by limitation six months after the date of issuance, if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any permit which has expired shall thereafter be performed, until a new permit therefor has been secured.
('70 Code, 2009 S-5 Supplement)

***State Law Reference**: NC Gen. Stat. § 160A-418*

### *SECTION 3-41. – CHANGES AFTER ISSUANCE.*

After a permit has been issued, no changes or deviations from the terms of the application plans and specifications, or permit, except where changes or deviations are clearly permissible under the state building code, shall be made, until specific written approval of such changes or deviations has been obtained from the Inspection Department.
('70 Code, 2009 S-5 Supplement)

***State Law Reference:** NC Gen. Stat. § 160A-419*

### *SECTION 3-42. – REVOCATION.*

The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing, stating the reason for such revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with requirements of this chapter and the appropriate regulatory codes; or for false statements or misrepresentations made in securing such permits.

('70 Code, 2009 S-5 Supplement)

***State Law Reference:** NC Gen. Stat. § 160A-422*

### *SECTIONS 3-43. – 3-50. – PLUMBING CODE ADOPTED BY REFERENCE.*

## CHAPTER 5. UNSAFE BUILDINGS

### *SECTION 3-51. – INSPECTION; NOTICE TO OWNER TO CORRECT.*

When the Inspector finds any defects 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 duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property he owns.

('70 Code, 2009 S-5 Supplement)

***State Law Reference:*** *NC Gen. Stat. § 160A-425*

### *SECTION 3-52. – CONDEMNATION OF ESPECIALLY DANGEROUS BUILDINGS.*

(a) Every building that shall appear to the Inspector to be especially dangerous to life because of its liability to fire or because of bad condition 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 Inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of said building.

(b) If any person shall remove any notice that has been affixed to any building or structure by the Inspector that states the dangerous character of the building or structure, he shall be guilty of a misdemeanor.

('70 Code, 2009 S-5 Supplement)

***State Law Reference:*** *NC Gen. Stat. §§ 160A-426 to 427*

### *SECTION 3-53. – FAILURE OF OWNER TO TAKE CORRECTIVE ACTION.*

(a) If the owner of a building or structure that has been condemned as unsafe pursuant to **§ 3-52.(a)** shall fail to take prompt corrective action, the Inspector shall give him written notice, by certified or registered mail to his last known address or by personal service:

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

(3) That following the hearing, the Inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

(b) If the name or 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 town at least once not later than one week prior to the hearing.

(c) If, upon a hearing held pursuant to the notice prescribed in divisions (a) and (b) above, the Inspector 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 shall make an order in writing, directed to the owner of such 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, not less than 60 days, that the Inspector may prescribe. However, where the Inspector finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

('70 Code, 2009 S-5 Supplement)

***State Law Reference:*** *NC Gen. Stat. §§ 160A-428 to 429.*

### *SECTION 3-54. – APPEAL BY OWNER.*

Any owner who has received an order under § 3-53.(c) may appeal from the order to the Board of Commissioners by giving notice of appeal in writing to the Inspector and to the Town Clerk within ten days following issuance of the

order. In the absence of an appeal, the order of the Inspector shall be final. The Board of Commissioners shall hear an appeal within a reasonable time and may affirm, modify or deny.

('70 Code, 2009 S-5 Supplement)
***State Law Reference:*** *NC Gen. Stat. § 160A-430*

### *SECTION 3-55. – ENFORCEMENT PROCEDURES AGAINST OWNER.*

If the owner of a building or structure fails to comply with an order issued pursuant to § 3-53.(c) from which no appeal has been taken, or fails to comply with an order of the Board of Commissioners following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

('70 Code, 2009 S-5 Supplement)
***State Law Reference:*** *NC Gen. Stat. § 160A-431.*

### *SECTIONS 3-56. – 3-60. – RESERVED.*

## CHAPTER 6. ABANDONED BUILDINGS

### *SECTION 3-61. – FINDING; INTENT.*

(a) It is hereby found that there exists within the town abandoned structures that the Board of Commissioners finds to be hazardous to the health, safety and welfare of the residents of the town due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities.

(b) Therefore, pursuant to the authority granted by G.S. § 160A-441, it is the intent of this subchapter to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation.

(Ord. 84-77, passed 9-4-84)

### *SECTION 3-62. – DUTIES OF THE BUILDING INSPECTOR REGARDING ABANDONED BUILDINGS.*

The Building Inspector is hereby designated as the town officer to enforce the provisions of this subchapter. It shall be the duty of the Building Inspector:

(a) To locate abandoned structures within the town, and determine which structures are in violation of this subchapter;

(b) To take such action pursuant to this subchapter as may be necessary to provide for the repair, closing or demolition of such structures;

(c) To keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this subchapter; and

(d) To perform such other duties as may be prescribed herein or assigned by the Board of Commissioners.

(Ord. 84-77, passed 9-4-84)

### *SECTION 3-63. – POWERS OF THE BUILDING INSPECTOR.*

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

(a) To investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this subchapter;

(b) To enter upon premises for the purpose of making inspections;

(c) To administer oaths and affirmations, examine witnesses, and receive evidence; and

(d) To designate such other officers, agents and employees of the town as he or she deems necessary to carry out the provisions of this subchapter.

*(Ord. 84-77, passed 9-4-84)*

### *SECTION 3-64. – STANDARDS FOR ENFORCEMENT.*

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

(1) The attraction of insects or rodents;

(2) Conditions creating a fire hazard;

(3) Dangerous conditions constituting a threat to children; or

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

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

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

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

(3) Violations of the State Building Code, the State Electrical Code, and the Fire Prevention Code that constitute a fire hazard in such structure;

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

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

(6) Violations of the State Building Code that might result in danger to children using the structure or nearby grounds or facilities as a play area; and

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

(Ord. 84-77, passed 9-4-84)

### *SECTION 3-65. – PROCEDURE FOR ENFORCEMENT.*

(a) *Preliminary investigation; notice; hearing.*

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

(2) The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint.

(3) Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such structure.

(4) Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard.

(5) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(b) *Procedure after hearing.*

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

(2) If the Inspector determines that the dwelling is in violation, he or she shall state in writing his or her findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such structure, or else remove or demolish the same within a specified period of time not to exceed 90 days.

(c) *Failure to comply with order.*

(1) *In Personam remedy.* If the owner of any structure shall fail to comply with an order of the Inspector within the time specified therein, the Inspector may submit to the Board of Commissioners, at its next regular meeting, a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

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

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

(Ord. 84-77, passed 9-4-84)

### *SECTION 3-66. – METHODS OF SERVICE OF COMPLAINTS AND ORDERS.*

(a) Complaints or orders issued by the Inspector shall be served upon persons, either personally or by registered or certified mail.

(b) However, if the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publication in a newspaper having general circulation in the town, at least once no later than the time at which personal service is required under **§ 3-65.**

(c) Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(Ord. 84-77, passed 9-4-84)

### *SECTION 3-67. – IN REM ACTION BY THE BUILDING INSPECTOR; PLACARDING.*

(a) After failure of an owner of a structure to comply with an order of the Inspector issued pursuant to the provisions of this subchapter, and upon adoption by the Board of Commissioners of an ordinance authorizing and directing him or her to do so, as provided by G.S. § 160A-443(5) and **§ 3-65**, the Inspector shall:

(1) Proceed to cause such structure to be repaired, removed or demolished, as directed by the ordinance of the Board of Commissioners; and

(2) Cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure.

(b) Use or occupation of a building so posted shall constitute a misdemeanor.

(c) Each such ordinance shall be recorded in the Office of the Register of Deeds of Robeson County, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).

(Ord. 84-77, passed 9-4-84)

### *SECTION 3-68. – COSTS OF LIEN ON PREMISES.*

(a) As provided by G.S. § 160A-446(6), the amount of the cost of any removal or demolition caused to be made or done by the Inspector pursuant to this subchapter shall be a lien against the real property upon which such cost was incurred.

(b) Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by Article 10, Chapter 160A of the General Statutes.

(Ord. 84-77, passed 9-4-84)

### *SECTION 3-69. – ALTERNATIVE REMEDIES.*

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

(Ord. 84-77, passed 9-4-84)

### *SECTION 3-70. – GENERAL RIGHT TO APPEAL.*

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of the Inspection Department pertaining to the state building code or other state building laws shall be taken to the Commissioner of Insurance or other official specified in G.S. § 143-139, by filing a written notice with him and with the Inspection Department within a period of ten days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.

***State Law Reference:*** *NC Gen Stat. § 160A-434*

### *SECTION 3-71. – REMEDIES.*

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.

***State Law Reference:*** *NC Gen Stat. § 160A-432*

### SECTION 3-72. – PENALTY.

Whoever violates any provision of this chapter shall be subject to the penalties provided by law.

### SECTION 3-73. – 3-80. – RESERVED.

## CHAPTER 7. REGULATION TO LICENSE AND PERMIT INSTALLERS OF ENERGY CONSERVATION MATERIALS AND EQUIPMENT

### SECTION 3-81. – AUTHORITY.

This chapter is adopted pursuant to G.S. §§ 143-151.26 et seq. and 160A-194.

(Ord. 78-024, passed 2- -78)

### SECTION 3-82. – REQUIRED LICENSE.

Pursuant to G.S. § 143-151.31, on and after January 1, 1978, no person, firm, or corporation may for a consideration install, alter, or restore within the town any insulation or other materials or energy utilization equipment designed or intended to meet the State Building Code requirements for insulation and energy utilization standards who is not either licensed as a contractor to do the proposed work under G.S. Ch. 87, or the holder of an annual license or permit to do such work issued by the town pursuant to G.S. §§ 153A-134 or 160A-194. However, this shall not apply to an installer working under the supervision of a registered architect or professional engineer or an owner working upon his own building.

(Ord. 78-024, passed 2- -78)

### SECTION 3-83. – APPLICATIONS.

Every person desiring a license under this subchapter shall submit an application for such license to the Building Inspector conforming to the following requirements:

(a) Form of application. Each application shall be a written statement upon forms provided by the Building Inspector.

(b) Contents of application. Each application shall contain the following information:

(1) Name and home address of the applicant, if an individual, or home office address, if a corporation or partnership;

(2) Names and home addresses of the partners, if a partnership;

(3) Names and home addresses of the officers and directors, if a corporation;

(4) Place where the proposed business is to be located;

(5) Complete record of all convictions of felonies or acts involving dishonesty, fraud, or deceit by the applicant or any employee, partner, officer, or director of the applicant, whether in this or any other state or jurisdiction.

(6) Complete record of all licenses held by the applicant or any employee, partner, officer, or director of the applicant authorizing activities of the type authorized herein or other activities involving construction, alteration, or modification of buildings and structures;

(7) Information as to the circumstances in which any local, state, or federal government or agency has refused, suspended, or revoked a license of the type described in division (B)(6) to the applicant or any employee, partner, officer, or director of the applicant.

(C) Fees. Each application shall be accompanied by a fee in the amount set by the Board of Commissioners for such license, such amount to be for the fiscal year and prorated by quarters to the end of such year.

(D) False statements. False statements on any application for a license shall be grounds for immediate revocation or denial of such license.

*(Ord. 78-024, passed 2- -78)*

### *SECTION 3-84. – PROCEDURE FOR ISSUANCE.*

(a) Review by town officers. Each application received by the designated officer shall be promptly forwarded to the inspection department, Police Department, or any other interested departments which might have information for review. Such officers shall promptly make any comments and recommendations pertaining to the application and forward those to the officer or board described below.

(b) Licensing agency. The application and any comments and recommendations relating thereto shall be considered by Building Inspector, which shall then issue or deny the license pursuant to the following standards.

(c) Standards. The Building Inspector shall issue the license unless it shall find that the applicant or any employee, partner, officer, or director of the applicant:

(1) Has been convicted within the last three years of a felony or an act involving dishonesty, fraud, or deceit, whether in this or any other state or jurisdiction, which felony or act has some reasonable connection with energy conservation installation;

(2) Has been refused a license to do the type of work authorized herein or has had such a license suspended or revoked by any local, state, or federal agency and such government or agency has not subsequently granted or restored such license;

(3) Has knowingly made a false statement in the application.

(4) Has failed to post the bond or other security required by **§ 3-85.**

(Ord. 78-024, passed 2- -78)

### *SECTION 3-85. – BOND REQUIRED.*

(a) Before a license shall be issued to any applicant, the applicant shall post a bond with the town in the amount set by the Board of Commissioners. In lieu of posting a bond, the applicant may deposit a cashier's check or cash in the same amount.

(b) The security required by division (A) above shall be available to indemnify any person for any damage which may accrue by reason of the applicant's failure to properly provide or install insulation, energy utilization equipment, or other materials designed or intended to meet the State Building Code standards for insulation and energy utilization.

(Ord. 78-024, passed 2- -78)

### *SECTION 3-86. – TERMINATION AND RENEWAL OF LICENSES.*

All licenses issued hereunder shall terminate on the last day of the fiscal year for which issued. Renewal of such licenses shall be pursuant to the same procedures and requirements set forth for initial issuance.

(Ord. 78-024, passed 2- -78)

### SECTION 3-87. – SUSPENSION; REVOCATION.

(a) The Building Inspector may suspend or revoke any license issued hereunder at any time upon a showing that the applicant or any employee, partner, officer, or director of the applicant has knowingly made a false statement in the application for a license, or violated the State Building Code requirements as to insulation or energy utilization equipment or materials, whether in this or any other jurisdiction, or been convicted of an act involving dishonesty, fraud, or deceit with respect to any contract entered into for work requiring this license.

(c) Any licensee whose license is suspended or revoked may appeal the suspension or revocation to the Town Board of Commissioners. After reasonable notice to the licensee, the Board of Commissioners shall afford the licensee an opportunity to show why its license should not be suspended or revoked.

(Ord. 78-024, passed 2- -78)

### SECTION 3-88. – CHANGE OF LOCATION.

The location of any licensed business may be changed, provided ten days' notice thereof is given to the town and operation at such new location does not violate any applicable state or local law, ordinance, or regulation.
(Ord. 78-024, passed 2- -78)

### SECTION 3-89. – REQUIRED PERMIT; FEE.

(a) On and after January 1, 1978, no person, firm, or corporation may for a consideration install, alter, or restore any insulation or other materials or energy utilization equipment designed or intended to meet the State Building Code requirements for insulation and energy utilization without first securing a special insulation and energy utilization permit from the Building Inspector for each item of work, which permit shall evidence compliance with the insulation and energy utilization standards of the State Building Code.

(b) There shall be a fee in the amount set by the Board of Commissioners for each permit issued.

(c) The following shall not be required to obtain the permit required by division (A) of this section:

(1) An owner working upon his own building; and

(2) An installer working under the supervision of a registered architect or professional engineer, when the work is being performed under a general building permit.

(Ord. 78-024, passed 2- -78)

### SECTION 3-90. – PENALTY.

Any person, firm, or corporation violating the provisions of this chapter shall be subject to all the applicable punishment, penalties, and equitable relief provided for by G.S. § 160A-175 and G.S. §§ 143-151.26 et seq.
(Ord. 78-024, passed 2- -78)

### SECTIONS 3-91. – 3-95. – RESERVED.

# CHAPTER 8. FLOOD PLAIN MANAGEMENT

## ARTICLE 1. GENERAL PROVISIONS

### SECTION 3-96. – PURPOSE AND AUTHORITY.

The purpose of regulating these flood plains as set forth in this chapter and as authorized by G.S. Ch. 143, Art. 21, Part 6 and G.S. § 153A, Art. 6, Part 121 is to help control and minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage and to otherwise regulate the use of the flood hazard areas to prevent or minimize loss of life, injuries, property damage, and other losses, both public and private, in flood hazard areas and to promote the public health, safety, and general welfare of the citizens of the town.

(Ord. passed 7-7-81)

### *SECTION 3-97. – INTENT.*

This chapter is intended to permit only that development within the flood hazard area which is appropriate in light of the probability of flood damage and presents a reasonable social and economic use of land in relation to the hazards involved. The regulation hereinafter set forth in this chapter shall apply to all property located within the hazard areas as shown on the official flood hazard boundary maps which are incorporated by reference and made a part of this chapter.

(Ord. passed 7-7-81)

### *SECTION 3-98. – JURISDICTION.*

The provisions of this chapter shall be applied within the boundaries of the town.

(Ord. passed 7-7-81)

### *SECTION 3-99. – DEFINITIONS.*

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

***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. The area may be designated as Zone A on the flood hazard boundary map. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, Al-99, VO, and VI-30.

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

***DEVELOPMENT.*** Any man-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.

***FLOOD*** or ***FLOODING.***

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
   (a) The overflow of inland or tidal waters.
   (b) The unusual and rapid accumulation or runoff of surface waters from any source.
   (c) Mudslides (such as, mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in division (1)(a) above.

***FLOOD ELEVATION DETERMINATION.*** A determination by the Federal Insurance Administrator of the water surface elevation of the base flood, that is, the flood level that has a 1% or greater chance of occurrence in any given year.

***FLOOD HAZARD BOUNDARY MAP (FHBM).*** An official map of a community, issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (such as, mudflow) related erosion areas having special hazards have been designated as Zone A, M, or E.

***FLOOD INSURANCE.*** The insurance coverage provided under the program.

***FLOOD INSURANCE RATE MAP (FIRM).*** An official map of a community on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

***FLOOD PLAIN*** or ***FLOOD-PRONE AREA.*** Any land area susceptible to being inundated by water from any source (see ***FLOODING.***)

***FLOOD PLAIN MANAGEMENT.*** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plan, flood control works, and flood plain management regulations.

***FLOOD RELATED EROSION.*** The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

***FLOODWAY.*** See ***REGULATORY FLOODWAY.***

***REGULATORY FLOODWAY.*** The channel of a river or other watercourse and the adjacent land areas that must be reversed in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

***STRUCTURE.*** For flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home. ***STRUCTURE*** for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a mobile home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

***SUBSTANTIAL IMPROVEMENT.*** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either, before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred.

***SUBSTANTIAL IMPROVEMENT*** is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(Ord. passed 7-7-81)

### *SECTION 3-100. – MINIMUM PROVISIONS; MEAASURES DESIGNED TO REDUCE FLOOD LOSSES.*

(A) The provisions of this chapter apply at a minimum to all areas identified by the Federal Insurance Administrator as flood plain areas having special flood hazards; and

(B) Provide that within the flood plain area having special flood hazards, the laws and ordinances concerning land use and control and other measures designed to reduce flood losses shall take precedence over any conflicting laws, ordinances, or codes.

(Ord. passed 7-7-81)

### *SECTION 3-101. – APPEALS BOARD.*

If the developer or builder desires to appeal the denial of the Enforcement Officer for a permit, he will submit a written request within 30 days of the denial to the Town Board of Commissioners stating his reasons for requesting such appeal. The Board of Commissioners will constitute the Appeals Board or they may appoint such Appeals Board members to act in their stead. The decision of the Enforcement Officer may be reversed by the majority of the members of the Appeals Board.
(Ord. passed 7-7-81)

### *SECTION 3-102. – LIABILITY.*

The granting of a permit shall not constitute a guarantee or warranty of any kind by the town, any officer, employee, or board, as to the safety or practicality of any structure or uses thereof or any other plan proposed and shall create no cause for action against or liability upon the town, any officer, employee, or board for damage to property by flood or otherwise. This chapter does not imply that property inside or outside the flood hazard area will be free from flood damage.

(Ord. passed 7-7-81)

### *SECTION 3-103. – AMENDMENTS.*

The Town Board of Commissioners may from time to time amend the terms of this chapter to effect further compliance with the Federal Flood Insurance Program. This entire chapter may be revoked and rewritten or amended as deemed appropriate by the Board of Commissioners.
(Ord. passed 7-7-81)

### *SECTIONS 3-104. – 3-110. – RESERVED.*

## ARTICLE 2. REQUIREMENTS

### *SECTION 3-111. – GENERAL PROVISION.*

All proposed development, new construction, and substantial improvements in the designated flood hazard boundary area will be subject to the requirements found in **Article 2** of this Chapter.
(Ord. passed 7-7-81)

### *SECTION 3-112. – PERMITS REQUIRED FOR PROPOSED CONSTRUCTION AND ITHER DEVELOPMENTS.*

(a) Permits are required for all proposed and other developments, including the placement of mobile homes and prefabricated buildings, within Zone A on the flood hazard maps or the flood insurance rate maps.

(b) Permit applications will be reviewed to determine whether the proposed building sites will be reasonably safe from flooding and flood related erosion. If a proposed building site is in a flood-prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall:

(1) Be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure;

(2) Be constructed with materials and utility equipment resistant to flood damage; and

(3) Be constructed by methods and practices that minimize flood damage.

(Ord. passed 7-7-81)

### *SECTION 3-113. – REVIEW OF PERMIT APPLICATION FOR SUBDIVISION PROPOSALS AND OTHER PROPOSED NEW DEVELOPMENTS.*

Permit application for subdivision proposals and other proposed new development will be reviewed to determine whether such proposals will be reasonably safe from flooding and flood related reason. If a subdivision proposal or other proposals shall be reviewed to assure that:

(a) All such proposals are consistent with the need to minimize flood damage within the flood-prone area.

(b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.

(c) Adequate drainage is provided to reduce exposure to flood hazards.

(d) All proposed development will be reviewed to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(e) All subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is the lesser, are required to include with such proposals the base flood elevation data.

(Ord. passed 7-7-81)

### *SECTION 3-114. – REVIEW OF BUILDING PERMIT APPLICATIONS TO DETERMINE IF BUILDING SITES SAFE FROM FLOOD HAZARD.*

The Enforcement Officer shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure; use construction materials and utility equipment that are resistant to flood damage; and use construction methods and practices that will minimize flood damage.

(Res. 74-009, passed 6-4-74)

### *SECTION 3-115. – WATER SUPPLY SYSTEMS.*

Within flood-prone areas, new and replacement water supply systems are required to be designed to minimize or eliminate infiltration of flood waters into the systems.

(Ord. passed 7-7-81)

### *SECTION 3-116. – SANITARY SEWAGE SYSTEMS.*

All new and replacement sanitary sewage systems within flood-prone areas are required to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(Ord. passed 7-7-81)

### *SECTION 3-117. –ON-SITE WASTE DISPOAL SYSTEM.*

All on-site waste disposal systems within flood-prone areas are required to be located to avoid impairment to them or contamination from them during flooding.

(Ord. passed 7-7-81)

### *SECTIONS 3-118. – BASE FLOOD LEVEL DATA.*

Any base flood elevation data available from a federal, state, or other source shall be obtained, reviewed, and reasonably utilized until such other data has been provided by the Federal Insurance Administrator, as criteria for requiring that:

(a) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood level; and

(b) All new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or flood-proofed to or above the base flood level.

(Ord. passed 7-7-81)

### *SECTION 3-119. – DETERMINATION OF APPLICABLE FLOOD INSURANCE RISK PREMIUM RATES.*

For the purpose of the determination of applicable flood insurance risk premium rates within Zone A on the flood hazard boundary map, the following information of this chapter will be filed with the Enforcement Officer:

(a) The elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement; and

(b) If the structure has been flood-proofed, the elevation (in relation to mean sea level) to which the structure was flood-proofed.

(Ord. passed 7-7-81)

### *SECTION 3-120. – MOBILE HOMES TO BE ANCHORED.*

All mobile homes to be placed within Zone A on the flood hazard boundary maps are required to be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. This will be accomplished in the following manner:

(a) Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations. Mobile homes less than 50 feet long will require only one additional tie per side.

(b) Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points. Mobile homes less than 50 feet long will require only four additional ties per side.

(c) All components of the anchoring system are required to be capable of carrying a force of 4,800 pounds.

(d) Any additions to the mobile home shall be similarly anchored.

(Ord. passed 7-7-81)

### *SECTION 3-121. – EVACUATION PLN TO BE FILED.*

All mobile home parks and mobile home subdivisions located within Zone A on the flood hazard boundary map, are required to have filed an evacuation plan indicating alternate vehicular access and escape routes with the appropriate disaster preparedness authorities.

(Ord. passed 7-7-81)

### *SECTION 3-122. – NOTIFICATION OF RIVERINE SITUATIONS ADJACENT TO COMMUNITIES.*

The Enforcement Officer of this chapter is required to notify, in riverine situations, the adjacent communities and the state coordinating office prior to any alteration or relocation of a watercourse. He will submit copies of such notification to the Federal Insurance Administrator. He will also assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(Ord. passed 7-7-81)

### *SECTION 3-123. – 3-125. - RESERVED*

## Article 3. Administration and Enforcement

### *SECTION 3-126. – ENFORCEMENT OFFICER; DUTIES.*

(a) The Town Manager shall be the Enforcement Officer and as such shall administer and enforce this chapter.

(b) The duties of the Enforcement Officer are to:

(1) Receive, review, and issue all permits required; and

(2) Make inspections of work in progress and at completion; issue orders to correct violations; bring any necessary judicial actions against actual or threatened violations; keep records; and take any other actions required in order to adequately enforce this chapter.

(Ord. passed 7-7-81)

### *SECTION 3-127. – BUILDING PERMIT.*

It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged, wholly, or partly in its use of structure, until a building permit shall have been issued by the Enforcement Officer.

(Ord. passed 7-7-81)

### *SECTION 3-128. – PLANS AND SPECIFICATIONS.*

To determine compliance with this chapter, the Enforcement Officer shall review the plans and specifications that are submitted in conformance with the State Building Code. The plans and specifications shall be accompanied by a certificate prepared by the developer or builder, or his licensed architect, or his licensed engineer to determine that the construction, alterations, repairs, or proposed development complies with the provisions set forth in ***Article 2*** of this Chapter. Unless the certificate is prepared by a licensed architect or licensed engineer, the Enforcement Officer may deny the permit if it appears there are no reasonable grounds for the certification.

(Ord. passed 7-7-81)

### *SECTION 3-129. – ASSURANCES AS TO CONFORMANCE.*

The Enforcement Officer may deny a permit unless assurance is obtained from the appropriate branch of the Department of Human Resources, the Department of Natural Resources and Community Development, or the local health department that the water supply and sanitary sewage systems are in conformance with this chapter.

(Ord. passed 7-7-81)

### *SECTION 3-130. – OTHER FLOOD MANAGEMENT PROGRAMS.*

The Enforcement Officer shall take into account flood plain management programs, if any, are already in effect in neighboring areas.

(Ord. passed 7-7-81)

### *SECTION 3-131. – REMEDY.*

Any violation of this chapter shall constitute a misdemeanor. The Enforcement Officer shall give any person in violation of this chapter a reasonable opportunity not to exceed 30 days to correct such violation before pursuing any other legal remedy.

(Ord. passed 7-7-81)

### *SECTION 3-132. - 3-135. – RESERVED.*

# CHAPTER 9. SOIL EROSION AND SEDIMENTATION CONTROL

## SECTION 3-136. – TITLE.

This chapter may be cited as the "Town Soil Erosion and Sedimentation Control" Chapter.
(Ord., passed 5-6-75)

## SECTION 3-137. – PURPOSE.

This chapter is adopted for the purposes of:

(a) Regulating land-disturbing activities to prevent unnecessary soil erosion and sedimentation in order that water pollution from sedimentation may be controlled, that the obstruction of natural and artificial drainage ways may be prevented, and that flooding may be inhibited.

(b) Establishing procedures through which these purposes can be fulfilled.

(Ord., passed 5-6-75)

## SECTION 3-138. – DEFINITIONS.

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

***ANGLE OF REPOSE FOR SATURATED SOIL CONDITIONS.*** The angle of maximum slope at which a heap of any loose soil, thoroughly soaked with moisture, will stand without sliding.

***DISTRICT.*** The County Soil and Water Conservation District created pursuant to G.S. Ch. 139.

***EROSION.*** The wearing of land surface by the action of wind, water, gravity, or any combination thereof.

***LAND-DISTURBING ACTIVITY.*** Any use of the land by any person or persons in residential, industrial, or commercial developments and in street and sidewalk construction and maintenance, or where any ground cover, natural or man-made is removed or existing site elevations are changed that results in a change of natural cover or topography and that may cause or contribute to sedimentation.

***PERSON.*** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, cooperative, or other legal entity.

***SEDIMENT.*** Solid particulate matter, both mineral and organic, that has been moved from its site of origin or is in suspension in water, or is being transported by air, water, gravity, or ice.

***WORKING DAYS.*** Days exclusive of Saturday or Sunday during which weather conditions permit land-disturbing activity to be undertaken.

(Ord., passed 5-6-75)

## SECTION 3-139. – SCOPE AND EXCLUSIONS.

This chapter shall apply to land-disturbing activities undertaken by any person, with the following exclusions:

(a) Land-disturbing activities undertaken on agricultural land but not limited to: forage and sod crops, grain and feed crops, tobacco, cotton and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals.

(b) Land-disturbing activities undertaken on forest land for the production and harvesting of timber and timber products.

(c) Land-disturbing activities undertaken by persons who are otherwise regulated by the provisions of G.S. § § 74-46 through G.S. 74-68, the Mining Act of 1971.

(d) Land-disturbing activities conducted by the state.

(e) Land-disturbing activities conducted by the United States.

(f) Land-disturbing activities conducted by local governments.

(g) Land-disturbing activities licensed by the United States.

(h) Land-disturbing activities financed in whole or in part by the state or United States.

(i) Land-disturbing activities at any one time, at any one site, by any persons that do not exceed a certain amount of square feet in surface area. In determining the area, contiguous lands will be aggregated.

(Ord., passed 5-6-75)

### *SECTION 3-140. – STANDARDS FOR LAND DISTURBING ACTIVITIES.*

No land-disturbing activity subject to the control of this chapter shall be undertaken except in accordance with the following standards:

(a) No land-disturbing activity shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25% of the buffer zone nearer the land-disturbing activity, provided, that this division (A) shall not apply to a land- disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

(b) No slope may be graded to an angle greater than the angle of repose for saturated soil conditions applicable for the type soil involved, unless the soil on such slope is retained by some adequate erosion controlling structure or device. In any event, soil left exposed will, within 30 working days of completion of any phase of grading, be planted or otherwise provided with a ground cover sufficient to restrain erosion.

(c) Whenever land-disturbing activity is undertaken on a tract comprising more than one acre, if more than one contiguous acre is uncovered, a ground cover sufficient to restrain erosion must be planted or otherwise provided within 30 days on that portion of the tract upon which further active construction is not being undertaken, provided that this division (C) shall not apply to cleared land forming the basin of a reservoir later to be inundated.

(Ord., passed 5-6-75)

### *SECTION 3-141. – PERMIT REQUIRED; EXCEPTIONS.*

No person shall undertake any land-disturbing activity subject to this chapter without first obtaining a permit therefor from the town, except that no permit shall be required for the following land-disturbing activities:

(a) Those done for the purpose of fighting fires.

(b) The stock piling of raw or processed sand, stone, or gravel in concrete, asphalt, and material processing plants and storage yards, provided that the slopes of such stock piles are no steeper than the natural angle of repose and that sediment control measures have been utilized to protect against off-site damages.

(Ord., passed 5-6-75)

### *SECTION 3-142. – EROSION CONTROL PLANS.*

(a) Upon review of an application for a permit, the town may require an erosion control plan for any land-disturbing activity. The power to require an approved erosion control plan for land-disturbing activities on sites of less than five acres shall be exercised only in those cases involving land-disturbing activities posing a substantial risk of erosion and sedimentation, such as those conditions near a stream or lake or those the cumulative impact of which would pose a substantial risk of erosion and sedimentation.

(b) An erosion control plan shall be developed and be available at all times at the site of the activity whenever a land-disturbing activity is undertaken on a tract comprising more than one acre if more than one contiguous acre is uncovered.

(c) An erosion control plan must be developed and approved by the town, prior to commencement of the land-disturbing activity whenever a land-disturbing activity is planned on a tract comprising more than five acres if more than one contiguous acre is to be uncovered at any one time.

(d) An erosion control plan not requiring prior approval shall contain information explaining how the standards established by ***§ 3-140*** are to be complied with, including but not limited to a simple sketch map of the site (and sufficient narrative statements if necessary) to describe:

(1) Any changes of elevation or drainage including culverts, piping, ditches, catch basins, diversions, or other devices which would affect erosion and sedimentation from the site.

(2) A nonvegetative protection including mulching, paving, riprap, walls, or other structures or surfaces planned for the site.

(3) All areas of vegetation to be removed, location of trees to be retained, and proposed vegetative cover to be established.

(4) A development schedule and grading specifications for the site.

(e) An erosion control plan which requires prior approval shall contain information concerning how the standards established by ***§ 3-140*** are to be complied with and must include at least the following items:

(1) A vicinity map drawn to a scale of not less than 2,000 feet to one inch showing the relationship of the site to its general surroundings.

(2) A plan of the site drawn to an appropriate scale showing:

(a) The boundary lines of the site on which the work is to be performed, including the approximate acreage of the site.

(b) Existing topography including, but not limited to, existing streams, water bodies, structures, road and vegetative cover of the site, and on land adjacent to the site.

(c) Existing contours with intervals of not more than ten feet where the slope is 20% or greater, and not more than five feet where the slope is from 10% to 20% and not more than two feet where the slope is less than 10%. In any event, the drainage pattern will be indicated.

(d) Proposed improvements of the site, including present development and future use, if known, proposed changes to the land surface and vegetative cover, and areas of cuts and fills.

(e) All drainage provisions, including culverts, piping, ditches, sediment basins, diversions, or other devices, any nonvegetative protection or support including paving, riprap, walls, or other structures or surfaces, any vegetative measures to be constructed in connection with, or as part of, the proposed work.

(f) Facilities for erosion control during construction and during the life of the facility.

(g) Title, scale, north arrow, date, and name of person preparing the plan.

(3) Narrative report including:

(a) A timing schedule and sequence of operations, stating the expected starting and completion dates of the development sequence.

(b) The estimated time of exposure of each area prior to the completion of effective erosion and sedimentation control measures, and other related data such as seeding mixtures and rates, type of sod, seed bed preparation, lime and fertilizer application, and mulching.

(c) A general description of the predominant soil types on the site.

(d) The name and address of the land owner, the developer, and the person submitting the plan.

(e) A statement that the land-disturbing activity shall be conducted in accordance with the plan.

(f) A statement giving any applicable engineering assumptions and calculations.

(f) An erosion control plan which requires approval prior to the commencement of land-disturbing activities shall be submitted to the appropriate Soil and Water Conservation District at the same time it is submitted to the town for approval. Within 20 days after receipt of each proposed plan, or within such additional time as the Board of Commissioners may allow, the District shall review the proposed plan and submit its comments and recommendations. Failure of the Soil and Water District within 20 days or within the prescribed additional time to submit its comments and recommendations shall not delay the final action on the proposed plan by the local government.

(g) Within 30 days of receipt of each erosion control plan, the town shall notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. A plan shall be approved only if it complies with the provisions of this chapter.

(h) Application for amendment of an erosion control plan in written or graphic form may be made at any time under the same conditions as the original application. Until such time as the amendment is approved by the town, the land-disturbing activities shall not proceed except in accordance with the erosion control plan as originally approved.

(Ord., passed 5-6-75)

### *SECTION 3-143. – INSPECTIONS.*

(a) Agents and officials of the town may inspect the sites of land-disturbing activities for which permits have been issued at reasonable times to determine whether the activities are being conducted in accordance with the plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activities.

(b) If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a notice to comply shall be served upon that person by registered mail. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activities fails to comply within the time specified, he shall be deemed in violation of this chapter.

(Ord., passed 5-6-75)

### *SECTION 3-144. – FEES.*

A fee in the amount set by the Board of Commissioners shall be charged for each permit.

(Ord., passed 5-6-75)

### *SECTION 3-145. – APPEALS.*

(a) The disapproval or modification of any proposed erosion control plan by the town shall entitle the person submitting the plan to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of disapproval or modification.

(b) Hearings held pursuant to this section shall be conducted by the Town Planning Board within five days after receipt of the request.

(c) The Planning Board shall make recommendations to the Board of Commissioners for the town concerning appeals and other matters related to this chapter. The Planning Board shall make its recommendations to the Board of Commissioners for the town within five days after the date of the hearing on any erosion control plan.

(d) The Board of Commissioners for the town shall render its final decision on any erosion control plan concerning which a hearing is requested within ten days of receipt of the recommendations from the Planning Board.

(Ord., passed 5-6-75)

### *SECTION 3-146. – INJUNCTIVE RELIEF.*

(a) Whenever the Board of Commissioners has cause to believe that any person is violating or threatening to violate this chapter or any rule or order adopted or issued pursuant to this chapter, or any term, condition, or provision of an approved erosion control plan, it may, either before or after the institution of any other action or proceeding authorized by this chapter, institute a civil action in the name of the town for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county.

(b) Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this chapter.

(c) Nothing in this chapter shall restrict any right which any person or class of persons may have under any statute or common law to seek injunctive or other relief.

(Ord., passed 5-6-75)

### *SECTION 3-147. – PENALTY.*

(a) Civil penalties.

(1) Any person who violates any of the provisions of this chapter, or rule or order adopted or issued pursuant to this chapter, or who initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be subject to a civil penalty of not more than the amount set by the Board of Commissioners. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation. Each day of a continuing violation shall constitute a separate offense.

(2) The Board of Commissioners shall determine the amount of the civil penalty to be assessed under this division (A)(2) and shall make written demand for payment upon the person in violation, and shall set forth in detail as description of the violation for which the penalty has been imposed. In determining the amount of the penalty, the Board of Commissioners shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. If payment is not received or equitable settlement reached within 60 days after demand for payment is made, the matter shall be referred to the Town Attorney for institution of a civil action in the name of the town, in the appropriate division of the general court of justice for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this chapter.

(b) Criminal penalties. Any person who knowingly or willfully violates any provision of this chapter, or rule or order adopted or issued pursuant to this chapter, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a misdemeanor punishable by

imprisonment not to exceed 30 days, or by a fine not to exceed a fee set by the Board of Commissioners, or by both, in the discretion of the court.

(Ord., passed 5-6-75)

### *SECTIONS 3-148. – 3-150. – RESERVED.*

## CHAPTER 10. NONRESIDENTIAL BUILDING REGULATIONS

**Article 1. General Provisions**

### *SECTION 3-151. – TITLE.*

The rules and regulations prescribed by this article shall be known and be cited as "The Nonresidential Building Code of the Town of Red Springs" and may be referred to in this article as "this code."

(Ord. #10-32, 9-20-2010)

### *SECTION 3-152. – PURPOSE AND AUTHORITY.*

Pursuant to G.S. 160A-439, it is the purpose of this article to establish minimum standards for the maintenance, sanitation and safety of all nonresidential buildings and structures within the corporate limits of the town. This article does not replace or modify requirements or standards otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities, except as provided in this article.

(Ord. #10-32, 9-20-2010)

### *SECTION 3-153. – SCOPE AND APPLICABILITY.*

(a) The provisions of this article shall apply to all nonresidential buildings or structures which are now in existence or which may be built within the corporate limits of the town.

(b) Every nonresidential building or structure and the property on which it is situated shall comply with the provisions of this article, whether or not such building or structure shall have been constructed, altered, or repaired before or after the enactment of this article, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building or structure or for the installment or repair of equipment or facilities.

(Ord. #10-32, 9-20-2010)

### *SECTION 3-154. – DEFINITIONS.*

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

*Alteration,* as applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities; as enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another; and the term "alter" in its various moods and tenses and its participle refers to the making of an alteration.

*Approved,* as applied to a material, device or mode of construction, means approved by the inspector under this article or by other authority designated by law to give approval in the matter in question.

*Area:*

(1) As applied to the dimensions of a building, means the maximum horizontal projected area of the building.

(2) As applied to the dimensions of a room, means the total square footage of floor area between finished walls.

*Basement* means a story with 50 percent or more of its cubical volume below finished grade.

*Building* means, for the purposes of this article, any structure built for the shelter or enclosure of persons, animals or property of any kind. The term "building" shall be construed as if followed by the phrase "or part thereof."

*Close* means securing the building or structure so that unauthorized persons cannot gain entrance.

*Code enforcement official* means the person who has been designated by the town manager to enforce this article.

*Demolish* means the demolition and removal of the entire building or structure, leaving the property free and clear of any debris and without holes or pockets which may retain water.

*Extermination* means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

*Garbage* means waste materials including, without limitation, the byproduct of animal or vegetable foodstuffs, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard waste, tins, metals, mineral matter, glass, crockery, dust and the residue from the burning of wood, coal, coke and other combustible material.

*Infestation* means the presence, within or around a building or structure, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or public.

*Inspector* means any person who is authorized by the code enforcement official to conduct inspections for the purpose of this article.

*Nonresidential* means any building or structure that is not a dwelling, lodging establishment, manufactured home or rooming house as those terms are defined in *Chapter 3.*

*Owner* means the holder of title in fee simple and every mortgagee of record.

*Party in interest* means all individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

*Pier* means a masonry or other material support extending from the ground and footing to and supporting the building or portion thereof. Pier sizes and spacing shall conform to the specifications of the state building code.

*Plumbing* means and includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, mechanical sink grinders, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

*Property* means any lot or parcel of land inclusive of any building, structures or improvements located thereon.

*Public authority* means any authority or officer of any department or branch of the government of the town, county or state who is in charge of administering and enforcing regulations relating to health, fire, public safety, buildings or other activities concerning buildings or structures in the town.

*State building code* means the North Carolina State Building Code or any superseding regulation.

*Town* means the Town of Red Springs.

*Vacant* means that a building or structure has not been used for its intended purpose or for any lawful purpose for a period of at least 180 consecutive days.

*Vacant industrial warehouse* means any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

*Vacant manufacturing facility* means any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purposes for at least one year and has not been converted to another use.

(Ord. #10-32, 9-20-2010)

**Article 2. Administration and Enforcement**

***SECTION 3-155. – DUTIES AND POWERS OF THE CODE ENFORCEMENT OFFICIAL.***

It shall be the duty of the code enforcement official to:

(1) Investigate the conditions of and inspect buildings and structures in the town in order to determine whether they have been properly maintained in compliance with the minimum standards established by this article so that the safety or health of the occupants or members of the general public are not jeopardized;
(2) Enter upon property for the purpose of making examinations and inspections provided that such entries shall be made in accordance with law and in such a manner as to cause the least possible inconvenience to the persons in possession, if any;
(3) If permission to enter is not granted by the owner, the owner's agent, a tenant, or other person legally in possession of the property, obtain a duly issued administrative search warrant in accordance with G.S. 15-27.2;
(4) Appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of this article;
(5) Delegate any of his or her functions and powers under this article to other officers and agents;
(6) Take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect compliance of nonresidential buildings or structures which are in an unsafe condition;
(7) Administer oaths and affirmations, examine witnesses and receive evidence;
(8) Issue notices of violation and impose civil penalties;
(9) Keep a record of the results of inspections made under this article; and
(10) Perform such other duties as may be prescribed in this article.

(Ord. #10-32, 9-20-2010)

***SECTION 3-156. – INSPECTIONS.***

For the purpose of making inspections, the code enforcement official is hereby authorized to enter and examine and survey, at all reasonable times, all property after sufficiently identifying himself. The owner or occupant of every property, or the person in charge thereof, shall give the code enforcement official free access to such property, at all reasonable times, for the purpose of such inspection, examination and survey.

(Ord. #10-32, 9-20-2010)

***SECTION 3-157. – ADMINISTRATIVE LIABILITY.***

Except as may otherwise be provided by statute or local law or ordinance, no town officer, agent or employee charged with the enforcement of this article shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article unless he acted with actual malice.

(Ord. #10-32, 9-20-2010)

***SECTION 3-158. – PROCEDURE FOR ENFORCEMENT.***

(a) *Preliminary investigation.* Whenever it appears to the code enforcement official that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by this article, he shall undertake a preliminary investigation.

(b) *Complaint and hearing.* If the preliminary investigation discloses evidence of a violation of the minimum standards established by this article, the code enforcement official shall issue a complaint and cause it to be served upon the owner of and parties in interest in such nonresidential building or structure. The complaint shall state the charges and contain a notice that a hearing will be held before the code enforcement official at a place therein fixed, not less than ten days or more than 30 days after the serving of such complaint. The owner or any party in interest shall have the right to correct the violation or to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearing before the code enforcement official.

(c) *Procedure after hearing; issuance of order.*

(1) If, after notice and hearing provided for in subsection (b), the code enforcement official determines that the nonresidential building or structure has been maintained in that the property meets the minimum standards established by this article, the code enforcement official shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof a copy of said determination.

(2) If, after notice and hearing provided for in subsection (b), the code enforcement official determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established in this article, the code enforcement official shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner an order in accordance with the provisions of subsection (c) (3) and (c) (4) of this section and subject to the limitations set forth in subsection (d).

(3) If the code enforcement official determines that the cost of repair, alteration, or improvement of the nonresidential building or structure would not exceed 50 percent of its then current value, then the code enforcement official shall state in writing the findings of fact in support of such determination and issue an order that requires the owner, within a reasonable time specified in the order, to either:

a. Repair, alter or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established in this article; or

b. Vacate and close the nonresidential building or structure for any use.

(4) If the code enforcement official determines that the cost of repair, alteration, or improvement of the nonresidential building or structure would exceed 50 percent of its then current value, then the code enforcement official shall state in writing the findings of fact in support of such determination and issue an order that requires the owner, within a reasonable time specified in the order, to either:

a. Remove or demolish the nonresidential building or structure; or

b. Repair, alter or improve the nonresidential building or structure to bring it into compliance with the minimum standards established in this article.

(d) *Limitations on orders.*

(1) Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National

Register of Historic Places and the town council determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established in this article.

(2) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(e) *Action by town council upon failure to comply with order.*

(1) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the town council may adopt an ordinance ordering the code enforcement official to cause such building or structure to be repaired, altered or improved in order to bring it into compliance with the minimum standards established by this article or to be vacated and closed for any use. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the code enforcement official may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The code enforcement official may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(2) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the town council may adopt an ordinance ordering the code enforcement official to cause such building or structure to be removed or demolished. No ordinance shall be adopted to require removal or demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established in this article. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the code enforcement official may cause the building or structure to be removed or demolished.

(f) *Action by town council upon abandonment of intent to repair.*

(1) If the town council has adopted an ordinance or the code enforcement official has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the town council may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure

and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the town in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the town council may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

a. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to 50 percent of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days; or

b. If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds 50 percent of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the town council may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(2) If the owner fails to comply with the ordinance, the code enforcement official shall cause the building or structure to be removed or demolished.

(Ord. #10-32, 9-20-2010)

***SECTION 3-159. – APPEALS FROM ORDER OF CODE ENFORCEMENT OFFICIAL TO THE BOARD OF ADJUSTMENT.***

All appeals, which may be taken from decisions or order of the code enforcement coordinator of officer pursuant to this article, shall be heard and determined by the board of adjustment. As the appeals body, the board of adjustment shall have the power to fix the times and places of meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties.

All appeals shall be subject to the following:

(a) An appeal from any decision of the code enforcement official may be taken by any person aggrieved thereby to the board. Any appeal from the code enforcement official must be taken within ten days after the rendering of the decision or service of the order by filing with the code enforcement official and with the appeals board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the code enforcement official shall forthwith transmit to the housing appeals board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the code enforcement official refusing to allow the person aggrieved thereby to do any act, the code enforcement official's decision shall remain in force until modified or reversed. When an appeal is from a decision of the code enforcement official requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing of the board unless the code enforcement official certifies to the board, after the notice of appeal is made, that,

by reason of the fact stated in the certificate, a copy of which shall be furnished to the appellant and other parties in interest, a suspension of this requirement would cause imminent peril to life or property. When the code enforcement official issues such a certificate, the requirement shall not be suspended except by a restraining order which may be granted for due cause shown upon not less than one day's written notice to the code enforcement official by the board or by a court of record upon petition made pursuant to G.S. 160A-446(c) and subsection (c) of this section.

(b) The board shall fix a reasonable time for the hearing of all appeals and cross appeals, shall give due notices to all parties in interest and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney and present evidence. The board may reverse, affirm, wholly or partly, or modify the decision or order appealed from and may make such decision and order as in its opinion ought to be made in the matter. All board meetings shall have a quorum present of at least four members, and the vote of at least four members shall be required for a decision on an appeal or cross appeal. The board shall have the power in passing upon appeals and cross appeals where there are practical difficulties or hardships to adopt the application of this chapter to the necessities of the individual case to the end that the general purposes of the law and justice shall be done.

(c) Every decision of the board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the service of the decision of the board on the person who filed the appeal.

(d) Any person aggrieved by an order issued by the code enforcement official or a decision rendered by the board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the code enforcement official pending a final disposition of the cause, as provided by G.S. 160A-446(f).

(Ord. #10-32, 9-20-2010)

### *SECTION 3-160. – METHODS OF SERVICE AND COMPLAINTS.*

(a) Complaints or orders issued by the code enforcement official pursuant to this article shall be served upon persons either personally or by registered or certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the property affected.

(b) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the code enforcement official in the exercise of reasonable diligence, and the code enforcement official makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under this article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the property affected.

(Ord. #10-32, 9-20-2010)

***SECTION 3-161. – LIS PENDENS.***

Any complaint and notice of hearing or order issued pursuant to this article may be filed in the notice of lis pendens in the office of the clerk of the superior court. A copy of the complaint containing a notice of hearing or a copy of the order shall be attached to the lis pendens. When the lis pendens is filed with the clerk, it shall be indexed and cross-indexed in accordance with the indexing procedures of G.S. 1-117 and it shall be served on the owners of and parties in interest in the building or structure. From the date and time of indexing the complaint and notice of hearing or order, it shall be binding upon the successors and assigns of the owners of and parties in interest in the building or structure. The code enforcement official may cancel the lis pendens upon his determination that the owner of the building or structure has fully complied with the code enforcement official's order.
(Ord. #10-32, 9-20-2010)

***SECTION 3-162. – COSTS A LIEN ON THE PROPERTY.***

(a) As provided by G.S. 160A-439(i), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the code enforcement official pursuant to the provisions of this article shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. § 160A, art. 10.

(b) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition expended by the code enforcement official is also a lien on any other real property of the owner located within the town limits except for the owner's primary residence. The additional lien provided in this subsection is inferior to all prior liens and shall be collected as a money judgment.

(c) If the nonresidential building or structure is removed or demolished by the code enforcement official, he shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the code enforcement official, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this article shall be construed to impair or limit in any way the power of the town council to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(Ord. #10-32, 9-20-2010)

***SECTION 3-163. – ALTERNATIVE REMEDIES.***

Enforcement by any remedy provided in this article shall not prevent enforcement by any other remedy provided in this article or in other ordinances or laws. With the exception of **subsection 3-158(e) (1),** however, a violation of any provision of this article shall not constitute an infraction or misdemeanor punishable under NC Gen. Stat. 14-4.
(Ord. #10-32, 9-20-2010)

***SECTION 3-164. – CONFLICT WITH OTHER PROVISIONS.***

If any provision, standard or requirement of this article is found to be in conflict with any other town ordinance, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.
(Ord. #10-32, 9-20-2010)

***SECTION 3-165. – VIOLATIONS; PENALTY.***

(a) It shall be unlawful for the owner of any nonresidential building or structure to fail, neglect or refuse to repair, alter or improve the building or structure, or to vacate and close and remove or demolish, or to vacate and close the building or structure upon order of the code enforcement official duly made and served as provided in this article, within the time specified in such order; and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense.

(b) It shall be unlawful for the owner or agent of the owner of any nonresidential building or structure, with respect to which an order has been issued to occupy or permit the occupancy of the building after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and removal or demolition, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(c) Any owner who fails to comply with an order of the code enforcement official to repair, alter or improve the building or structure or to vacate and close and remove or demolish the building or structure, or vacate and close the building or structure within the time specified in the order, shall be subject to a civil penalty in the amount of $500.00 for the first day of noncompliance and $50.00 for each day thereafter until the building or structure is brought into compliance with the order. The civil penalty may be recovered by the town in a civil action in the nature of a debt if the owner does not pay the penalty within 30 days after the initial day of noncompliance.

(Ord. #10-32, 9-20-2010)

### *SECTION 3-166. – EJECTMENT.*

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the code enforcement official may file a civil action in the name of the town to remove the occupant. Such action shall be filed in the nature of summary ejectment and conducted in accordance with G.S. 160A-439(j).
(Ord. #10-32, 9-20-2010)

## Article 3. Maintenance Standards

### *SECTION 3-167. – MAINTENANCE STANDARDS IN GENERAL.*

Only electrical, mechanical and plumbing devices and systems which are (i) intended to be used at the time of inspection; (ii) being used at the time of inspection; or (iii) required by law at the time of inspection are subject to the applicable portions of this article.
(Ord. #10-32, 9-20-2010)

### *SECTION 3-168. – EXTERNAL MAINTENANCE STANDARDS.*

(a) Exit requirements.

(1) Minimum number of exits shall conform to the requirements of the state building code as applicable.

(2) Every stairway, deck, porch, and balcony, and all appurtenances attached thereto, including without limitation, handrails and guardrails, shall be maintained in a structurally sound condition, in good repair. Each shall be properly anchored and capable of supporting live or dead loads.

(b) Electrical facilities.

(1) No receptacles, ceiling fixtures, or other fixtures shall be hanging loose, unless designed and rated for that purpose.

(2) All switches and receptacles shall be safe.

(3) There shall be no unsafe wiring.

(4) There shall be no drop or extension cords in excess of six feet in length used in place of permanent wiring.
(5) No circuits shall be overloaded.
(6) Fuses shall be sized correctly and not bridged out.
(7) All wiring shall be in accordance with the National Electrical Code.

(c)Exterior walls.

(1) There shall be no unsafe wall conditions such that the plumbline from the top center of studs falls outside the base plate at any point along the wall.
(2) Maximum spacing for studding, providing they show signs of being weak or overloaded, shall comply with the requirements of the state building code.
(3) Studs or other structural members shall be structurally sound and not likely to cause structural weakness in the future.
(4) There shall be no broken or cracked structural members.
(5) All siding shall be reasonably weathertight, with no holes or excessive cracks or decayed boards, or siding material.
(6) There shall be no loose siding.
(7) There shall be no deterioration because of lack of preventative maintenance consisting of painting, waterproofing and repair.

(d)Roofs.

(1) All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the dead and live loads.
(2) The roof and flashing shall be sound, tight and not have defects which admit water or rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior of the structure. Roof drains, gutters, scuppers, and downspouts shall be maintained in good repair, and free from obstructions. Roof water shall not be discharged in a manner that creates a health or safety hazard.

(e)Porches, vestibules and external covered areas.

(1) The floor, ceiling, and roof shall be equal to requirements set forth in this article, except sills, joists and floors need not be level if providing drainage of floors; floors need not be weathertight.
(2) Every stairway, deck, porch and balcony, and all appurtenances attached thereto, including, without limitation, handrails and guardrails, shall be maintained in a structurally sound condition, in good repair. Each shall be properly anchored, and capable of supporting imposed loads.

(f) Windows, where provided, including frames, sash components, and glazing shall be maintained in good condition, with no broken, cracked, or missing glazing.

(g) Property maintenance.

(1) Building structure. Exterior wood surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative with sufficient frequency to prevent deterioration.
(2) Open areas. There shall be no heavy undergrowth or accumulation of plant growth which is noxious or detrimental to health, or because it is overgrown, may provide harborage for criminal activity.
(3) Infestation. Grounds, buildings and structures shall be maintained free of infestation by rodents, insects and other pests.
(4) Chimneys and towers. All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or

wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(Ord. #10-32, 9-20-2010)

### *SECTION 3-169. – INTERIOR MAINTENANCE STANDARDS.*

In general. The interior of a structure and equipment therein shall be maintained in good order, shall be structurally sound, and be in a sanitary condition. Occupants shall keep that part of the building or structure which they occupy or control in a clean and sanitary condition.

(a) *Exit requirements.* Minimum number of exits shall conform to the requirements of the state building code as applicable.

(b) *Plumbing systems and facilities.*

(1) In general, all fixtures and piping shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects. All plumbing shall be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

(2) Plumbing fixtures shall have adequate clearance for usage and cleaning.

(3) Where it is found that a plumbing system in a building or structure creates an unsafe condition that is hazardous to the occupants, or by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation deterioration or damage, or for similar reasons, the code enforcement official shall require the defects to be corrected to eliminate the unsafe condition.

(c) *Heating facilities.*

(1) Building shall be weatherproof.

(2) Heating systems shall be maintained in good order and repair and shall be of sufficient capacity so as to heat all occupied areas in accordance with the state building code.

(3) All safety controls and all clearances to combustible materials for electrical equipment which produces heat shall be maintained in effective operation.

(4) Other heating facilities, where provided, shall meet the requirements of the state building code.

(5) All electric, gas and heating oil heating equipment installed on the property shall be listed by Underwriters' Laboratories, Inc. or American Gas Association and installed in accordance with the provisions of the state building code.

(6) All mechanical appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

(7) All fuel burning equipment or appliances shall be connected to an approved chimney or vent. Fuel burning equipment and appliances labeled for unvented use are an exception to this requirement.

(8) All required clearances to combustible materials shall be maintained.

(9) All safety controls for fuel burning equipment shall be maintained in effective operation.

(d) *Electrical facilities.*

(1) No receptacles, ceiling fixtures, or other fixtures shall be hanging loose unless designed and rated for that purpose.

(2) All switches and receptacles shall be safe.

(3) There shall be no unsafe wiring.

(4) There shall be no drop or extension cords in excess of six feet in length used in place of permanent wiring.
(5) No circuits shall be overloaded.
(6) Fuses shall be sized correctly and not bridged out.
(7) All wiring shall be in accordance with the National Electrical Code.

(e) *Structural standards.*

(1) *Foundation.*

a. Beneath the building or structure there shall be firm ground, which is reasonably dry, properly drained and no water shall be running under the building or structure.
b. There shall be sound footings and adequate bearing.
c. There shall be sound piers and no loose mortar or masonry.
d. There shall be no piers in which the plumbline from the top center falls outside the middle one-third of the pier base.
e. There shall be no isolated masonry piers exceeding in height ten times the least dimension of the pier.
f. There shall be no wood stiff-knee piers.

(2) *Floors.*

a. Flooring shall be weathertight without holes or excessive cracks which permit air to penetrate rooms.
b. Flooring or floor covering shall be reasonably smooth and not decayed, fire damaged or worn through.
c. There shall be no loose flooring.
d. Floors shall be reasonably level.
e. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the dead and live loads.

(3) *Interior load bearing walls.*

a. There shall be no unsafe wall conditions such that the plumbline from the top center studs falls outside the base plate at any point along the wall.
b. Maximum spacing for studding, providing the studs show signs of being weak or overloaded, shall comply with the requirements of the state building code.
c. Studs or other structural members, including posts and columns, shall be structurally sound and not likely to cause structural weaknesses in the future.
d. There shall be no broken or cracked structural members.

(4) *Interior porches, landings and vestibules.*

a. The floor and ceiling shall be equal to the requirements set forth in this article.
b. Every stairway, deck, porch and balcony and all appurtenances attached thereto, including, without limitation, handrails and guardrails, shall be maintained in a structurally sound condition and in good repair.
c. Any interior porch, landing or vestibule shall be properly anchored and capable of supporting live and dead loads.

(Ord. #10-32, 9-20-2010)

### *SECTION 3-170. – PROPERTY MAINTENANCE STANDARDS.*

(a) *Building structure.* Storage of combustible materials is prohibited unless the building or structure is designed for that purpose.

(b) *Open areas.*

(1) Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant pools.

(2) Fences, sheds, signs, outbuildings, and other accessory buildings shall be maintained in a safe and functional condition or removed or demolished.

(3) Yards, courts, parking lots, and driveways shall be kept clean and free of physical hazards, garbage, junk, junked vehicles, vehicle parts and other similar material.

(4) There shall be no heavy undergrowth or accumulation of plant growth which is noxious or detrimental to health, or because it is overgrown, may provide harborage for criminal activity.

(5)There shall be adequate lighting to prevent harborage for criminal activity.

(c) *Infestation.* Grounds, buildings and structures shall be maintained free of infestation by rodents, insects and other pests.

(d) *Garbage.* There shall be adequate sanitary facilities and methods for the storage, handling and disposal of garbage generated on or by the property.

(e) *Storm drainage.* Drainage of paved areas, yards, courts and other open areas on the property shall not be discharged in a manner that creates a health or safety hazard.

(Ord. #10-32, 9-20-2010)

### *SECTION 3-171. – VACANT BUILDINGS OR STRUCTURES.*

(a) The interior maintenance standards set forth in Section 3-166 shall not apply to vacant nonresidential buildings or structures unless one or more of the following serious conditions is present on the property:

(1) Overall conditions present a serious health or safety hazard.

(2) The building or structure is a breeding area for rodents or insects.

(3) The building or structure presents a fire hazard.

(4) The building or structure is structurally unsafe and presents a threat to the safety of code enforcement personnel, fire department personnel and law enforcement officers or members of the general public.

(5) The building or structure is frequented by vagrants.

(6) The building or structure is not properly secured to prevent unauthorized access.

(b) If the code enforcement official orders a nonresidential building or structure vacated and closed pursuant to this article, the owner shall board and secure such building or structure in accordance with the guidelines for boarding and securing a building or structure provided by the code enforcement official.

(Ord. #10-32, 9-20-2010)

### *SECTION 3-172. – 3-180. – RESERVED.*

# TITLE 4. - GENERAL AND SUPPLEMENTAL REGULATIONS

## CHAPTER 1. – ADVERTISING

### ARTICLE 1. - GENERAL REGULATIONS

#### *SECTION 4.1. – DESTROYING OR MUTILATING BILLS, POSTERS, ETC.*

It shall be unlawful for any person to destroy or mutilate any bill, advertisement, sign or poster, without the knowledge, consent or approval of the person to whom such bills, advertisements, signs or posters belong, whenever such are placed where he has the right to place them.

***State Law Reference***—*Injuring notices, signs and advertisements generally, G.S. § 14-384; defacing or destroying legal notices and advertisements, § 14-385.*

#### *SECTION 4.2. – FASTENING SIGNS.*

It shall be unlawful for any person to paste, tack, fasten or lean against any building, wall, fence, tree, pole, post or any other property any advertising sign, cards or placards, without the consent or approval of the owner of such property.

***State Law Reference***—*Unlawful posting of advertisements, G.S. § 14-145.*

#### *SECTION 4.3. – POSTING SIGNS ON PUBLIC PROPERTY PROHIBITED.*

It shall be unlawful for any person to post any bill, placard, handbill, flyer, painting, sign, or other similar object on or over any street right-of-way, property owned by the town, or property established as a beautification site by the Town unless approved by the Town Manager. The provisions of this section shall not be applicable to any signs, signals, markings and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic and to political campaign signs regulated by the provisions of Article II of Chapter 3 of the Code.

#### *SECTIONS 4.4. - 4.10. – RESERVED.*

### ARTICLE 2. POLITICAL CAMPAIGN SIGNS

#### *SECTION 4.11. – DEFINITIONS.*

For the purposes of this article, the following words or phrases shall have the meanings respectively ascribed to them in this section:

***Political campaign sign*** means any sign urging the election or defeat of any candidate seeking any political office, or urging the passage or defeat of any referendum issue.

***Public property*** means all property owned by the Town, all property established as a beautification site by the Town and its tree commission, all public streets, any area within the visibility triangle at a street intersection for a distance of 25 feet from any intersection of a street boundary line, and everything affixed thereto and there over.

***Sign*** means and includes any bill, poster, placard, handbill, flyer, painting, sign or other similar object in any form whatsoever which contains printed or written matter in words, symbols, or pictures, or in any combination thereof.

***Street boundary line*** means the curb line or other edge of the travelled portion of a public street.

### *SECTION 4.12. – POSTING ON PUBLIC PROPERTY PROHIBITED.*

No person shall post a political campaign sign on or over any public property in the Town. Posting of political campaign signs at polling places on the day of the election shall not be a violation of this section.

### *SECTION 4.13. – OTHER PROHIBITED LOCATIONS.*

(a) No person shall post a political campaign sign so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads.

(b) No person shall attach a political campaign sign to a traffic control device or sign, utility pole or structure, or tree located upon public property or within the public right-of-way.

### *SECTION 4.14. – POSTING TIME LIMITS.*

Within portions of a public right-of-way not included in the scope of public property as defined by Section 3-12, no person shall post a political campaign sign more than 30 days prior to the election for which the sign is posted and fail to remove a political campaign sign within three days after the election for which the sign was posted.

### *SECTION 4.15. – SIZE LIMITS.*

(a) Within portions of a public right-of-way not included in the scope of public property as defined by section 3-11, no person shall post a political campaign sign with a surface area exceeding 16 square feet and no person shall post a political campaign sign with a surface area exceeding four square feet between the travelled portion of the street and a line running parallel and five feet from the outer edge of the street, and everything affixed thereto and there over.

(b) Within portions of the visibility triangle at a street intersection for a distance of 50 feet from any intersection of the street boundary line, no person shall post a political campaign sign with a height exceeding 24 inches. The provisions of this subsection shall not permit the posting of signs otherwise prohibited pursuant to the provisions of this article.

### *SECTION 4.16. – REMOVAL OF ILLEGAL SIGNS.*

Political campaign signs in violation of this article are hereby declared to be public nuisances and may be abated as such by the town. The director of public works or his authorized agents are hereby authorized to remove any political campaign sign found posted within the corporate limits of the Town when such sign is in violation of the provisions of this article.

### *SECTION 4.17. – STORAGE, NOTICE, RETURN.*

If the director or his agents remove any political sign, he shall keep a record of the location from which the sign was removed. He shall store the political campaign sign in a safe location for at least ten days and shall immediately notify by telephone the candidate, committee or person responsible for the posting of the sign, indicating the fact of removal and the location where it may be retrieved. If the director is unable to make telephone contact, he shall provide written

notice, if the address of the candidate, committee, or person is known or can be ascertained. The director shall return any political campaign sign upon the payment of the fee provided in section 3-18.

### *SECTION 4.18. – REMOVAL OF SIGN; CHARGE.*

The Town shall be entitled to receive the sum written in the adopted annual budget ordinance for every political campaign sign removed by the director or his agents due to the sign being posted greater than three days after the election for which the sign was posted, to cover the expense of removal, notice and storage. In cases where unusual effort is needed to remove a sign, such as the cutting or removal of supporting structure, use of aerial devices, towing of trailer signs, or other unusual situation, the Town shall collect from the person responsible a sum sufficient to cover the costs and hourly wages of employees so utilized.

### *SECTION 4.19. – CANDIDATE RESPONSIBLE FOR THE POSTING OF POLITICAL CAMPAIGN SIGNS; EXCEPTIONS.*

In a campaign for political office, the candidate for such office shall be deemed the person responsible for the posting of political campaign signs, unless he first notifies the Town Clerk and the director of public works of another person who is responsible. In such case, the candidate shall provide the name, address, telephone number, and signed consent of such other responsible person. In a campaign regarding a referendum issue, the president of the committee supporting or opposing such referendum issue shall be deemed responsible, unless he first notifies the Town Clerk and director of public works of some other person responsible, in the manner described above. The candidate, or in the case of a referendum issue, the committee president, or other responsible person if so designated, shall be liable to pay any fees or costs for the removal and storage of illegal signs, as set out herein. Nothing in this section shall be interpreted to make any person liable for any sign posted by persons unknown to him or her, or by persons over whom he or she has no control.

### *SECTIONS 4.20 – 4.25. – RESERVED.*

# CHAPTER 2. – ANIMALS AND FOWL

## ARTICLE 1. – GENERAL

### *SECTION 4-26. – ANIMAL CONTROL.*

The Town of Red Springs adopts by reference Chapter 4, Article II of the ***Robeson County Code of Ordinances, Animal and Rabies Control.***

### *SECTION 4-27. – DISPOSAL OF DEAD ANIMALS.*

No person shall deposit or cause to be deposited the carcass of any dead animal in the streets, roads, alleys, woods or waters within the corporate limits of the Town. The bodies or carcasses of dead cats or dogs will be removed at any time upon request during the town's working hours if placed in an accessible location on the premises.

***State Law Reference—*** *Department of transportation's authorization to remove dead animals from rights-of-way, G.S. § 136-118(21); disposition of dead domesticated animals, G.S. § 106-403.*

### *SECTION 4.28. – KEEPING OF LIVESTOCK WITHIN THE TOWN LIMITS.*

It shall be unlawful for a resident of the Town of Red Springs to keep or harbor livestock including but not limited to horses, donkeys, cattle, swine, goats and sheep within the Town limits, except as provided in Title 11, Chapter 12 – Solar Energy Facility.

### *SECTION 4.29. – KEEPING OF CHICKENS WITHIN THE TOWN LIMITS.*

The keeping of chickens within the Town is not permitted.

### *SECTION 4.30. – NOISY ANIMALS.*

It shall be unlawful for any person to keep or maintain on any premises or lot within the Town any animal the noise from which constitutes a public nuisance. Failure to abate such nuisance within two (2) days after written notice to do so from the office of Town animal control or his designee shall be a violation of this chapter and punishable pursuant to **Section 4.6** below.

### *SECTION 4.31. – REMOVAL OF FECES DEPOSITED BY DOGS REQUIRED.*

(a) It shall be unlawful for any person walking or in control of any dog to allow or permit such animal to defecate upon any public property, including but not limited to parks, trails, streets, sidewalks and school grounds, unless such person removes all feces and other animal waste so deposited by such animal before leaving the immediate premises.

(b) It shall be unlawful for any person walking or in control of any dog to allow or permit such animal to defecate upon any private property not owned by or in the possession of the person that owns such dog, unless such person removes all feces and other animal waste so deposited by such animal before leaving the immediate premises; provided that this restriction shall not apply if the owner or other person in possession of such private property has in writing authorized the dog to be walked on such property without the removal of feces so deposited.

(c) This section shall not apply to dogs being walked by persons with visual or other physical disabilities that substantially interfere with the ability of such persons to comply with its provisions.

(d) All feces removed in accordance with the provisions of this section shall be (i) properly wrapped or packaged to contain odors and protect the public health, and deposited in a trash container where the person making the deposit is otherwise authorized to deposit trash, or (ii) disposed of in another sanitary manner.

### *SECTION 4-32. – PENALTY FOR VIOLATION.*

(a) Any Town official authorized by Board of Commissioners may issue to the known owner or custodian of any animal, or to any other violator, a citation giving notice of the violation of this chapter. Citations so issued may be delivered in person or mailed by registered mail to the person charged if that person cannot be readily found. The citation issued shall impose upon the custodian or violator a civil penalty of fifty ($50.00) dollars which may be paid to the Town Clerk within fourteen (14) days of receipt in full satisfaction of the assessed civil penalty. This penalty is in addition to any other fees and penalties authorized by this chapter or state law.

(b) In the event that the custodian of the animal or any other violator does not appear before the Town Clerk in response to the above described citation or the applicable civil penalty is not paid within the time period prescribed, a criminal summons may be issued against the custodian of the animal or any other violator for violation of this chapter and upon conviction the custodian or other violator shall be punished as provided by state law and be subject to a fine of five hundred ($500.00) dollars or imprisonment for not more than thirty (30) days.

### SECTIONS 4-33. – 4-35. – RESERVED.

## ARTICLE 2. *DOGS*

### SECTION 4-36. – DEFINITIONS

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

***AT LARGE.*** Off the premises of the owner and not under control of the owner, a member of his immediate family, or other responsible persons, either by leash, cord, or chain.

***DOG.*** Both male and female, more than three months old.

***HEAD OF HOUSEHOLD.*** The person who maintains the household, or if no one person maintains the household, the head of the household shall be the eldest male residing in that household, but if no male resides there, then the eldest female.

***IMPOUNDED.*** Having been taken or received into the custody of the Animal Control Officer or any authorized representative thereof.

***OWNER.*** Any person, firm, association, or corporation owning, keeping, or harboring a dog, and for the purpose hereof, the head of a household shall be deemed to be the owner in respect to any dog or dogs, owned, kept, or harbored on the premises by any person residing in that household.

***POUND.*** The place provided and operated for the restraint, care, and disposition of animals, whether the pound or shelter is public or private in nature.

***STRAY.*** Any dog which does not wear a current license tag.

***VICIOUS DOG.*** Any dog which has bitten one or more persons without provocation, or one in which a propensity to attack humans exists, and the propensity is known or ought to reasonably be known to the owner.

(Ord., passed 2-5-85)

### SECTION 4-37. – HELD FOR FUTURE CODIFICATION

### SECTION 4-38. – HELD FOR FUTURE CODIFICATION

### SECTION 4-39. – HELD FOR FUTURE CODIFICATION

### SECTION 4-40. – HELD FOR FUTURE CODIFICATION

### SECTION 4-41. – HUMANE CARE AND TREATMENT REQUIRED

The owner of a dog shall provide it with humane shelter from heat, cold, rain, wind, and snow, and shall give it food and water adequate to keep the animal in good health and comfort. Shelter must be soundly constructed, sanitary, and odor free. Veterinary care shall be provided as needed to prevent the suffering of a dog. No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse any dog.

(Ord., passed 2-5-85)

### SECTION 4-42. – REGULATING THE NUMBER OF DOGS

It shall be unlawful for a person to keep on any lot or premises within the corporate limits, more than three dogs. However, this limitation shall not apply to dogs which are less than three months old.

(a) Any person wishing to keep more than three dogs on any lot or premises shall apply to the Town Manager for a permit to maintain more than three dogs. Any person requesting a permit shall furnish a signed statement from all adjacent residents that they do not object to more than three dogs on the property. (Adjacent residents are those persons whose property either adjoins the property of the person requesting the permit, or who reside directly across the street or road.)

(b) Upon receipt of written and signed complaint by the Town Manager from a person specifying the location where more than three dogs are being kept, the Manager can require the Police Department to investigate, and if it is determined that this section is being violated, the Police Department shall notify the persons responsible for keeping the dogs. Upon notice from the Police Department the responsible persons shall, within 48 hours from time of notification, remove from the premises the number of dogs in excess of three which are prohibited by this subchapter.

(c) Any person granted a permit under division (A) of this section to keep more than three dogs on their lot, shall be required to comply with division (B) if a complaint is filed with the Town Manager by two or more adjacent property owners declaring that by keeping three or more dogs, a nuisance is being created by: excessive barking, loud noises, or that poor sanitary conditions are being created, resulting in odor.

(Ord., passed 2-5-85)

### SECTION 4-43. – TEASING, MOLESTING, OR BATING PROHIBITED

It shall be unlawful for any person to tease, molest, bait, or in any way bother any dog not belonging to that person or legally under their control.

(Ord., passed 2-5-85)

### SECTION 4-44. – ABANDONMENT OF DOGS

No owner of any dog shall abandon any dog within the town.

(Ord., passed 2-5-85)

### SECTION 4-45. – CONFINEMENT OF FEMALE DOGS IN HEAT

The owner of any female dog shall, when that dog is in heat, confine the dog in a building or secure enclosure in a manner that the dog will not be in contact with another dog or create a nuisance by attracting other dogs. However, this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of any animal being bred.

(Ord., passed 2-5-85)

### SECTION 4-46. – MUZZLING

Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the Mayor, if he deems it necessary, shall issue a proclamation ordering every person owning or keeping a dog to confine the dog on the owner's premises unless the dog shall have a muzzle of sufficient strength to prevent its biting any person.
(Ord., passed 2-5-85)

### SECTION 4-47. – VISCIOUS DOGS

When, in the judgment of the Animal Control Officer or his agent, it is determined that any dog found running at large is dangerous, fierce, vicious, or represents a threat to the safety or health of members of the public, that dog may be slain by the Animal Control Officer or his agent, or by any policeman, or other designated official forthwith.
(Ord., passed 2-5-85)

### SECTION 4-48. – BARKING DOGS

It shall be unlawful for any person to own, keep, or harbor or maintain within the town, any dog that habitually or repeatedly barks, howls, or whines in a manner or to such extent that it is a public nuisance or causes serious annoyance to the neighborhood or to any residence or interferes with the reasonable use and enjoyment of public streets, sidewalks, and other public areas.
(Ord., passed 2-5-85)

### SECTION 4-49. – STRAY DOGS

It shall be unlawful for any person in the town to harbor, feed, or otherwise keep in their possession any dog which does not belong to them.
(Ord., passed 2-5-85)

### SECTION 4-50. – DOGS RUNNING AT LARGE

It shall be unlawful for any owner or keeper of any dog to permit that dog to run at large.
(Ord., passed 2-5-85)

### SECTION 4-51. – RESPONSIBILITY OF OWNERS

Owners of dogs are responsible for the acts of their dogs. When any dog commits a nuisance upon the property of another person or damages another person's property or person, the owner of that dog is fully responsible and accountable for the dog's acts.
(Ord., passed 2-5-85)

### SECTION 4-52. – IMPOUNDMENT OF UNLICENSED, LICENSED DOGS

(a) Any dog found running at large within the town, which dog does not have a current tag affixed to a collar worn by the dog, shall be deemed to be a stray dog and shall be taken by the Animal Control Officer or his agent and delivered to the County Dog Warden. The dog then becomes the responsibility of the county and its further disposition shall be under the applicable laws of the county or the state.

(b) Any dog found running at large within the town, which is wearing a collar displaying a current license tag, shall be apprehended by the Animal Control Officer or his agent and impounded in a pound. The official impounding the dog shall make a complete registry of the dog including the breed, color, sex, license tag number, and name and address of the registered owner.

(Ord., passed 2-5-85)

### SECTION 4-53. – NOTIFICATION

Not later than two days after impounding any dog, the Animal Control Officer or his agent shall attempt to notify the registered owner of the dog by telephone or personal contact. Should the notification be unsuccessful, the Animal Control Officer, or his agent, shall mail a certified letter to the address indicated on the license tag application. In the event the certified letter is returned to the town as undeliverable to the address stated on the license tag application, the town shall be relieved of all responsibility of contacting the owner of the dog.
(Ord., passed 2-5-85)

### *SECTION 4-54. – REDEMPTION OF IMPOUNDED DOG*

The owner of any dog impounded under the provisions of section 4-52(b) may redeem the dog by:

(a) Having the dog duly vaccinated for rabies if it has not been currently vaccinated before the redemption date.
(b) Paying to the town an apprehension and notice fee in the amount set by the Board of Commissioners.
(c) Paying the impoundment fee for each day or portion thereof, which the dog has been impounded.
(d) Paying any other costs and charges which may, from time to time, be imposed by the Town Board.
(e) Complying with those rules, regulations, and procedures as may, from time to time, be established by the Board of Commissioners, for the orderly operation of the pound.

(Ord., passed 2-5-85)

### *SECTION 4-55. – DISPOSITION OF UNCLAIMED OR DISEASED DOGS*

If at the expiration of five days from the date notice is given to the owner of a dog, the dog has not been claimed or redeemed by the owner, the dog shall either be placed for adoption in a suitable home or humanely euthanized. Immediately prior to the euthanization of any dog, it shall be the responsibility of the Animal Control Officer or his agent to certify to the Town Manager that notice to owner required by this subchapter has been made pursuant to the provisions of section 4-53.
(Ord., passed 2-5-85)

### *SECTION 4-56. – PROCEDURE IN LIEU OF IMPOUNDMENT*

(a) In addition to, or in lieu of, impounding a currently licensed dog found running at large, the Animal Control Officer or his agent may issue to the known owner of the dog a notice of violation of this subchapter. The notice shall impose upon the owner of the dog a penalty in the amount set by the Board of Commissioners.
(b) This penalty may be paid to the Town Clerk's office/Police Department within 72 hours from receipt of the notice, provided, that in the event the penalty is not paid within the time period prescribed, enforcement of the penalty provided in section 4-61 shall be initiated as by law provided for the enforcement of all town ordinances.

(Ord., passed 2-5-85)

### *SECTION 4-57. – REMOVAL OF IMPOUNDED DOGS*

No dog impounded by the Animal Control Officer or his agent shall be removed from the place of impoundment except in the presence of the Animal Control Officer or his agent and in conformance with section 4-54.
(Ord., passed 2-5-85)

### SECTION 4-58. – VACCINATIONS

It shall be unlawful for the owner of any dog to keep, harbor, or maintain a dog unless it shall have been vaccinated by a licensed veterinary surgeon with anti-rabies vaccine as required by the general statutes of the state and proof of inoculation shall be attached to the collar of the dog.

(Ord., passed 2-5-85)

### SECTION 4-59. – ANIMAL CONTROL OFFICER; APPOINTMENT; INVESTIGATION AND INSPECTION RIGHTS

(a) The Town Manager is authorized to appoint an Animal Control Officer.

(b) Whenever it is necessary to make an investigation or inspection to enforce any of the provisions of or perform any duty imposed by this subchapter, or other applicable law, or whenever the Animal Control Officer or his designated agent has reasonable cause to believe that there exists upon any premises any violation of the provisions of this subchapter, or other applicable law, the Animal Control Officer or his designated agent is empowered to enter upon the property at any reasonable time and to inspect the same and perform any duty imposed upon the Animal Control Officer or his agent by this subchapter or other applicable law.

(Ord., passed 2-5-85)

### SECTION 4-60. – DOGS DISPLAYING THE PROPENSITY FOR INJURY TO PERSONS OR PROPERTY

(a) For the purpose of this section, any one or more of the following actions by a non-confined dog shall be considered a display of the propensity for injury to persons or property:

(1) Vicious and threatening display to any pedestrians.

(2) Assault by an unpenned dog on any pedestrian.

(3) The destruction of any property by an unpenned dog.

(4) The running at large of any dog with a history of anti-social conduct toward people.

(b) Any dog that has exhibited a propensity for injury to people or property shall be confined behind a 12-gauge chain link wire fence of not less than six feet in height, with a four-inch slab floor.

(c) A violation of this section shall require the apprehension of the animal by the Animal Control Officer and its destruction as otherwise provided herein.

(Res. 87-146, passed - -87)

### SECTION 4-61. – PENALTY

(a) Any person who violates any provision of this chapter for which no penalty is specified shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding the amount set by the Board of Commissioners or by imprisonment of not more than 30 days.

(b) Any person violating section 4-37 through 4-41 and section 4-43 through 4-60 shall be deemed guilty of a misdemeanor and shall be punished by a fine in the amount set by the Board of Commissioners. If such violation is continued, each day shall be a separate offense.

(c) Any person failing or refusing to remove from the premises the number of dogs required to comply with section 4-42 within 48 hours from the time of notification shall be guilty of a misdemeanor and shall be subject to imprisonment for a period not to exceed 30 days as provided by G.S. § 14-4.

(Ord., passed 2-5-85)

### SECTIONS 4-62. – 4-70. – RESERVED

# CHAPTER 3. - CEMETERIES

## ARTICLE 1. GENERAL PROVISIONS

### *SECTION 4-71. – PURPOSE.*

The purpose of this chapter is to provide for the health and safety of the public and the longevity of any town cemetery and any future cemetery owned and maintained by the Town of Red Springs.

***State Law Reference—*** *Municipal cemeteries, G.S. § 65-37 et seq.; North Carolina Cemetery Act, G.S. § 65-46 et seq.; authority to establish and operate cemeteries, G.S. § 160A-341; regulation of town cemeteries, G.S. § 160A-348.*

### *SECTION 4-72. – CONTROL OF CEMETERIES.*

The Town Manager, through the Public Works Director, shall have absolute charge of the town cemetery with authority to enforce all ordinances, rules, and regulations, relating to the cemetery and shall have same kept in good order.
(Ord. #13-07, 4-2-2013)

### *SECTION 4-73. – ENTERING CEMETERY AFTER CLOSING HOURS.*

(a) No person shall enter the Town Cemetery except during the hours in which they are open to the public as set forth herein, except upon written permission first granted by the Town Manager or the Public Works Director.
(Ord. #13-07, 4-2-2013)

(b) Normal operating hours for the Alloway Cemetery shall be from sunup to sundown.
('70 Code, 2009 S-5 Supplement, § 6-2) (Am. Res. passed 8-5-75)

### *SECTION 4-74. – ADVERTISEMENTS, POSTERS, ETC.*

No advertising of any description shall be permitted within any of the town cemetery. No bills, posters, place-cards, pictures or any other like or similar device shall be attached or posted on either the inside or the outside of any wall of fence enclosing the town cemetery.
(Ord. #13-07, 4-2-2013)

### *SECTION 4-75. – TRUCKS AND WAGONS FORBIDDEN.*

Commercial trucks and wagons, except those engaged in cemetery business shall not be permitted inside the gates of the town cemetery.
(Ord. #13-07, 4-2-2013)

### *SECTION 4-76. – BICYCLE, HORSEBACK, AND UNLICENSED MOTORCYCLES ARE PROHIBITED.*

Horseback riding and the riding of bicycles and unlicensed motorcycles are hereby prohibited in the town cemetery.
(Ord. #13-07, 4-2-2013)

### *SECTION 4-77. – DRIVING ON ROADS; SPEED LIMIT.*

No person shall drive a vehicle on any part of the grounds of the town cemetery except upon the main roads and avenues provided therein for vehicular traffic. It shall be unlawful for any person to drive any vehicle within a cemetery owned and operated by the town at a rate of speed not in excess of ten (10) miles per hour.
(Ord. #13-07, 4-2-2013)

### *SECTION 4-78. – PARKING.*

No person shall park or cause to remain parked any vehicle within any cemetery of the town unless engaged in attendance at a burial service or otherwise engaged in activities which call for the presence of such vehicle within the cemetery.
(Ord. #13-07, 4-2-2013)

### SECTION 4-79. – FIREARMS.

Except in the case of military funerals and veterans or military commemorative exercises, it shall be unlawful for any unauthorized person to carry firearms into the town cemetery.
(Ord. #13-07, 4-2-2013)

### SECTION 4-80. – DISTURBANCES.

Any person disturbing the quiet and good order of the town cemetery by unnecessary noise of any kind or by any other improper conduct may be ejected from the grounds. Any person refusing to leave the cemetery when notified to do so for any disturbance, improper conduct or other violation of any of the regulations or ordinances concerning such cemetery shall be guilty of a misdemeanor.
(Ord. #13-07, 4-2-2013)

### SECTION 4-81. – DEFACING OR REMOVING PROPERTY – GENERALLY; FLOWERS.

It shall be unlawful for any person in any way to disturb any grave; deface, pull up or remove anything put or placed to mark a grave, or any wall, fence, or enclosure around a grave, or any flowers, shrubs, or trees on any cemetery lot or elsewhere in the cemetery, provided, that the same shall not be a violation if done in compliance with the rules and ordinances pertaining to the cemetery under a permit duly granted by the town manager or the public works director.
(Ord. #13-07, 4-2-2013)

### SECTION 4-82. – SAME- MONUMENTS, ETC.

It shall be unlawful for any person, willfully and without authority, to defile, deface, desecrate, place any mark upon or otherwise injure any monument, headstone, or marker contained in any cemetery duly and lawfully maintained.
(Ord. #13-07, 4-2-2013)

### SECTION 4-83. – DOG AND FOWL.

It shall be unlawful for any person to allow his dog or any other animal or fowl to enter the town cemetery, and all dogs and fowl found within the enclosure or grounds of any town cemetery shall be impounded.
(Ord. #13-07, 4-2-2013)

### SECTION 4-84. – SAME-REMOVAL OF NON-CONFORMING OR UNSIGHTLY FLOWERS.

The public works director shall have the authority to remove all floral designs, flowers, weeds, plants and herbage of any kind from the cemetery as soon as, in his judgement, they become unsightly or do not conform to the standards.
(Ord. #13-07, 4-2-2013)

### SECTION 4-85. – SAME-RECORDS TO BE KEPT.

Suitable books shall be provided and kept for entries by the public works director of interments and exhumations in the town cemetery. Such entries shall contain the name, age, sex, date of death and date of burial of every person in the town cemetery.
(Ord. #13-07, 4-2-2013)

### SECTION 4-86. – AUTHORITY AND PERMISSION REQUIRED FOR INTERMENT OR DISINTERMENT.

No person shall be interred or disinterred in the cemeteries owned and operated by the town without lawful authority and permission first being had and obtained.

***State Law Reference—*** *Exhumations, G.S. § 130A-390.*

### *SECTION 4-87. – LANDSCAPING*

Landscaping shall be the responsibility of the Town. Shrubbery, plants, or trees will not be permitted to disturb markers or block streets.

('70 Code, 2009 S-5 Supplement, § 6-4) (Am. Res. passed 8-5-75)

### *SECTION 4-88. – FENCING*

Cinderblock, brick, masonry walls, or chain and chain link fencing will not be permitted.

('70 Code, 2009 S-5 Supplement, § 6-4) (Am. Res. passed 8-5-75)

### *SECTION 4-89. – UPRIGHT STONES AND MARKERS– OLD SECTION ONLY*

Eight-grave and four-grave lots will have only one upright stone which is to be located in center of each plot. Stones are to have six-inch bases which extend in all directions.

('70 Code, 2009 S-5 Supplement, § 6-4) (Am. Res. passed 8-5-75)

### *SECTION 4-90. – STONES AND MARKERS – NEW SECTION ONLY*

Lot corners, grave stones, head stones, foot stones and coping will be flat with lot surface.

(Ord. #13-07, 4-2-2013)

### *SECTIONS 4-91. – 4-95. – RESERVED.*

## ARTICLE 2. SALE OF LOTS OR PLOTS

### *SECTION 4-96. – CHARGES FOR CEMETERY LOTS.*

The charges for a cemetery lot shall be available upon request from town hall or the public works director. Applicable recording fees shall be paid by the purchaser, in addition to the purchase price, at the time of purchase. Available lots for pricing shall include the following:

a. Old Section - single grave lot, 5 feet, five inches by 12 feet, five inches.
b. Old Section - four-grave lot, 11 feet by 25 feet.
c. New Section - eight-grave lot 12 feet, five inches by 22 feet.
d. New Section - four-grave lot, 11 feet by 25 feet or 12 feet, five inches by 23 feet.
e. New Section - single grave lot, 5 feet, five inches by 12 feet, five inches.

### *SECTION 4-97. – PROCEDURE FOR PURCHASE; CASH SALES.*

Persons desiring to purchase a lot or plot in the town cemetery shall file an application for purchase which shall be available at town hall. The public works director may set an appointment with the purchaser to lay off the plot in question. Immediate payment in cash is required when purchasing a lot or plot and charges shall be established and published by the town board of commissioners. On payment of the required sum, the public works director shall issue a certificate to the purchaser of such lot or plot specifying the same and the price thereof. Upon presentation of such certificate to the town clerk, a deed shall be made and executed. A copy of such deed shall be delivered to the purchaser and a copy shall be kept by the town clerk in a book to be kept in her office for that purpose.

(Ord. #13-07, 4-2-2013)

### SECTION 4-98. – FURTHER PROVISIONS AS TO SALE TO NON-RESIDENTS.

Except as otherwise provided in this article, the purchase price of a cemetery lot is hereby fixed by the Town Board of Commissioners at a price at least 50 percent higher to persons residing outside the corporate limits of the town than to a person residing within the corporate limits of the town, irrespective of ownership of property within the town.
(Ord. #13-07, 4-2-2013)

### SECTION 4-99. – SALES TO CORPORATIONS OR BUSINESS CONCERNS.

Sales of cemetery lots to any corporation or to business concerns are hereby expressly forbidden.
(Ord. #13-07, 4-2-2013)

### SECTION 4-100. – LIMITATION ON NUMBER OF LOTS A PERSON MAY PURCHASE.

(a) No person shall be entitled to purchase more than one group of two (2) lots or one group of four (4) lots, except when there are unusual and extraordinary circumstances surrounding the specific situation which make it necessary to sell more than two lots. In this case, the purchaser shall apply to and receive from the public works director his specific written approval of the exception.
(b) When four lots are purchased, they shall be in an area surveyed to the dimensions of 12 feet by 22 feet.
(c) It shall be unlawful for any person to sell or transfer any lot in the town cemetery without first obtaining the consent and approval of the public works director. A copy of the new deed shall be submitted to the town hall for appropriate execution.

(Ord. #13-07, 4-2-2013)

### SECTION 4-101. – COMPLIANCE WITH REGULATIONS WHETHER STATED OR NOT IN DEED TO LOTS.

The provisions of this subchapter and any rules and regulations which may be promulgated thereunder, as now enacted or promulgated and as they may be amended in the future, shall be considered as incorporated in and made a part of each lot in Alloway Cemetery, whether or not so stated in the deed or certificate of interment.
('70 Code, 2009 S-5 Supplement, § 6-7) (Am. Res. passed 8-5-75)

***State Law Reference—*** *Municipal cemeteries, G.S. § 65-37 et seq.; North Carolina Cemetery Act, G.S. § 65-46 et seq.; authority to establish and operate cemeteries, G.S. § 160A-341; regulation of town cemeteries, G.S. § 160A-348.*

### SECTIONS 4-102. – 4-120. – RESERVED.

## CHAPTER 4. SUPPLEMENTAL REGULATIONS

### SECTION 4-121. – PURPOSE OF SUPPLEMENTAL REGULATIONS.

Many uses that would be permitted by right or through a conditional use permit have specific natures that require further explanation of how the district regulations apply to that use. Contained in this chapter are the supplemental regulations which have been established by the town. Readers may refer to the tables in each district description section for basic information on uses that are permitted by right or through conditional use permits. For any use which requires the issuance of a conditional use permit, the supplemental use regulations listed herein may be in addition to any other fair and reasonable conditions placed on the use by the Town Board. The conditions may impose greater restrictions on a particular use than those which are listed herein.

### SECTION 4-122. – ACCESSORY BUILDINGS.

Accessory Buildings shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Accessory buildings shall not be erected in any required front or side yards. In the rear yards, they shall be located not less than ten (10) feet from the side property line and not less than ten (10) feet from the rear property line.
(b) Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to all regulations of this ordinance applicable to the main building.
(c) An accessory building shall not occupy more than twenty-five (25) percent of a required rear yard, plus forty (40) percent of any non-required rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building.
(d) No detached accessory building shall be located closer than ten (10) feet to any other building.
(e) There shall be no more than two (2) accessory buildings per lot.
(f) No detached accessory building shall exceed the maximum height of the permitted building heights in each district.

('70 Code, 2009 S-5 Supplement)

### *SECTION 4-123. – ADULT AND SEXUALLY-ORIENTED BUSINESS CONCERNS.*

Adult and Sexually Oriented Businesses shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) No adult or sexually oriented business shall be located within 750 feet of a residential zoning district, a church, a school, a hospital or nursing home, a public park or a day care center.
(b) No adult or sexually oriented business shall be located within 1,000 feet of another such establishment.
(c) No more than one adult or sexually oriented business shall be located in the same building, development or on the same lot.

### *SECTION 4-124. – ANIMAL CARE CLINICS; VETERINARIES; KENNELS.*

Animal Care Clinics, Veterinaries, and Kennel shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Outside kennels shall be located only in a side or rear yard.
(b) Outside kennels shall be set back a minimum of fifty (50) feet from an adjoining street right-of-way or property line.
(c) Exterior enclosures and runs must provide protection against weather extremes. Floors of runs must be made of impervious material to permit proper cleaning and disinfecting.
(d) All animal quarters and runs are to be kept in a clean, dry, and sanitary condition.
(e) Fencing surrounding exercise areas and/or runs must be of a sufficient height to prevent escape and must be buried as part of installation to prevent escape by digging beneath the fence posts.
(f) Noise must be mitigated so as not to create a public nuisance for adjoining properties and must comply with all local noise regulations. This excludes typical noise from exercise or training while outdoors during the daytime during hours of operation.
(g) The use shall comply with all state and local regulations including the licensing agency, the North Carolina Department of Agriculture.
(h) For indoor kennels, the minimum setbacks shall be the same as for primary structures.
(i) Indoor kennels in the Residential zoning district are permitted only as an accessory use to a single-family residential use. A minimum lot size of three (3) acres is required.

(j)

### SECTION 4-125. – AUTOMOBILE SERVICE STATIONS; OTHER AUTO-RELATED BUSINESSES.

Automobile service stations shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Air compressors, hydraulic hoists, pits, repair equipment, greasing and lubrication equipment, auto washing equipment and similar equipment shall be entirely enclosed within a building.
(b) Certification by a registered engineer shall be required to ensure the prevention of petroleum and petroleum related product runoffs into the existing municipal storm drainage system.
(c) All garbage and refuse shall be stored in mechanical loading containers located near the rear of the lot or building, but not less than twenty feet from any adjacent property lines unless the zoning officer determines that such a setback is not practicable. In such cases, the zoning officer may, as an alternative, require a lesser setback provided sufficient screening is installed.
(d) All vehicular repair activities shall be conducted within an enclosed structure. Any vehicles partially dismantled or wrecked should be stored in an enclosed structure or a screened and buffered impoundment area located away from public view.
(e) Entrances and exits:
    a. Shall be a minimum of 100 feet, as measured along each side of the street on which they abut, from any school, public playground, church, hospital or health care facility, public library or institution for dependents or children.
    b. Shall be a minimum of 100 feet from any residential district located on either side of the street on which the entrance abuts.
    c. Shall be a minimum of 20 feet from ay corner as measured from the point where the right-of-way lines meet or from the midpoint of the curve where a corner exists but is not an intersection ("L" curve in a street).
(f) All areas subject to regular use by vehicles shall be paved.

('70 Code, 2009 S-5 Supplement)

### SECTION 4-126. – BONA FIDE FARMS.

Bona fide farms in the Town of Red Springs extraterritorial jurisdiction are exempt from the provisions of this Ordinance as directed by NCGS 160A-360(K), as amended by S.L. 2011-363(H168).

### SECTION 4-127. – CHILD CARE CENTERS; DAYCARES.

Child Care Centers and Daycares shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) There shall be a minimum of seventy-five (75) square feet of outdoor recreational space for each client. The outdoor recreational area shall be located in a side or rear yard and shall be enclosed by a fence of at least four (4) feet in height.
(b) The hours of operation of a child care center shall be established by the issuance of a Conditional Use Permit in the Agricultural Residential, Open Space, Residential Mobile Home, and the RMH-1 zoning districts.

(c) Minimum paved off-street parking spaces: Two spaces plus one for each employee.
(d) Minimum paved off-street loading and unloading area: In addition to the off-street parking area, there shall be sufficient paved driveway to accommodate at least two autos at one time for the purpose of loading and unloading passengers.
(e) The child care center shall have a specified plan for ingress and egress.
(f) No child may remain on the premises of a child care center for more than twenty-four (24) consecutive hours in one (1) stay.

### *SECTION 4-128. – CLASS B AND C MOBILE HOMES PROHIBITED.*

Class B and C Mobile Homes shall be regulated as to location in the following manner in addition to other requirements of this Ordinance.

(a) No Class B or C Mobile Home shall be placed in the jurisdiction of this Ordinance nor shall any Class C Mobile Home that is existing within the jurisdiction of this Ordinance be moved, and placed at any other location within the jurisdiction of this Ordinance. Mobile homes must have been constructed after July 1, 1976, and meet HUD standards.

### *SECTION 4-129. – DISSTILLERIES AND MICROBREWERIES.*

An establishment that meets the definition of a microbrewery or distillery shall be permitted provided it meets the requirements of NCGS 18B-1104 or 18B-1105, respectively. Tasting rooms are an accessory use to a microbrewery.

### *SECTION 4-130. – DRIVEWAYS.*

No portion of any entrance driveway leading from a public street shall be closer than twenty (20) feet to the corner of any intersection measured from the right-of-way line. The width of any entrance driveway leading from the public street shall not exceed thirty (30) feet at its intersection with the curb or street line. No two driveways on a single lot leading from a public street shall be within (20) feet of each other measured along the right-of-way line.
('70 Code, 2009 S-5 Supplement)

### *SECTION 4-131. – DUPLEX RESIDENTIAL STRUCTURES.*

A "Duplex" structure shall be allowed in all zoning districts in which single-family structures are allowed, provided that, no more than one structure on a single lot is permitted.

### *SECTION 4-132. – EXCEPTION TO BUILDING SETBACK REQUIREMENTS.*

No building setback for dwellings need exceed the average for existing buildings adjoining on either side if such buildings are less than 200 feet apart, provided that the setback is not reduced to less than 10 feet.
('70 Code, 2009 S-5 Supplement)

### *SECTION 4-133. – FAMILY CARE HOMES AND GROUP HOMES.*

Family Care Homes shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Family Care Homes:
  a. Applications: The following information shall be submitted as part of the application:

i. A description of the type of persons to be cared for, the nature of the care to be provided, and the number of staff persons and specialists that will be involved.

ii. If structural alterations to existing structures or new construction is required, a complete description of the nature and extent of the alterations or new construction.

b. Lot Size: A minimum lot size of two (2) acres shall be required. Additional acreage may be required by the Robeson County Health Department if a septic tank waste disposal system is proposed.

c. Proximity to Other Facilities: Family care homes must be located no closer than one-half (½) mile from any other family care home.

d. Appearance: The proposed structure shall have the appearance of a residential building or any proposed structural alterations shall be of a nature as to preserve the residential character of the building.

e. Parking: Parking shall be at the sides and rear of the building. The number of spaces shall be calculated at: three (3) spaces for every five (5) beds except for uses exclusively serving children under 16 years of age, in which case, one (10 space for every three (3) beds shall be required.

f. Licenses: Operators shall have a licensing permit or letter from the appropriate State agency that it will be issued.

(b) Definitions:

a. **Family Care Home**. A facility designed to provide room, board and care for six (6) or fewer handicapped persons (adults or children) in a family environment. Handicapped persons include those with physical, emotional, or mental disabilities, but not those who have been deemed dangerous to themselves or others (see NC Gen Stat. §168-21).

b. **Group Home**. An establishment qualified for a license by the State of North Carolina for the provisions of resident services to seven (7) or more individuals of whom one (1) or more are unrelated and who are handicapped, aged, disabled, or who are runaways, disturbed, or emotionally deprived children who are undergoing rehabilitation or extended care and who are provided services to meet their needs. This definition includes group homes for all ages.

(Ord. #08-07, 4-1-2008)

### *SECTION 4-134. – FARM STANDS.*

Farm stands shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) A farm stand shall only be used for the retail sale of produce and agricultural products on the property.

(b) Farm stands shall only be located three hundred (300) feet from any intersection and forty (40) feet from the front property line.

(c) Maximum area of a farm stand is three hundred (300) square feet.

(d) Two temporary on-site signs are permitted. No sign permit is required. Signs shall comply with the following:

a. A maximum of sixteen (16) square feet each.

b. A maximum of six (6) feet.

(e) Farm stands that sell anything other than fresh, farm-produced fruits, vegetables, nuts, and shell eggs are considered “retail food stores.”

(f) No food preparation at the farm stand is allowed.

(g) No live animals within twenty (20) feet of food storage or sales area are allowed, except service dogs.

### *SECTION 4-135. – FLEA MARKETS.*

Flea Markets shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Hours of operation are limited to 8:00 am to 6:30 pm.
(b) The sale of food for consumption on or off the premises will require licensing by the City and approval by the Department of Health.
(c) The sale of firearms and/or alcohol is prohibited.
(d) Permanent open-air flea markets are required to install and maintain fencing or landscaping along three (3) sides of the open market. A landscape plan describing both fencing and landscaping must be reviewed and approved by the Code Administrator.

### *SECTION 4-136. – GOLF CARTS.*

Golf carts shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Purpose. The purpose of this chapter shall be to establish a golf cart ordinance within the Town of Red Springs to promote the health, safety and welfare of persons operating golf carts within the Town.
(b) Definitions**.** For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DRIVER'S LICENSE-** A valid license to operate a motor vehicle issued by North Carolina or any other state.

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

**GOLF CART**- A vehicle designed and manufactured for operation on a golf course for sporting recreation purposes and that is not capable of exceeding speeds of twenty miles per hour (MPH).

**OPERATOR**- Only persons 16 years of age or older and holding a driver's license may operate a golf cart.

(c) Rules & Regulations

1. Carts may be driven on roads only from dawn to dusk unless the cart is equipped with two operating headlights (one on each side of the front of the golf cart) and two operating tail lights with brake lights (one on each side of the rear of the golf cart) which are visible from a distance of 500 feet.
2. Carts must be equipped with a rear vision mirror and a rear triangle reflector on the same type required by North Carolina law.
3. Carts must be equipped with seatbelts for the number of persons whom individual seating is installed and provided by the cart and each occupant shall have a seatbelt properly fastened about his or her body at all time the cart is in motion.
4. Cart drivers must have a valid driver license in their name and must be 16 years of age or older.
5. Cart drivers will stay to the far right of the travel portion of the road and yield to the right-of-way to overtaking vehicles.
6. The number of occupants in a golf cart shall be limited to the number of persons for whom individual seating is installed and provided on the golf cart. The operator and all occupants shall be seated in

the golf cart and no part of the body of the operator or occupant shall extend outside the perimeter of the golf cart while the cart is in motion.

7. All applicable state laws shall be adhered to, including the possession and use of alcoholic beverages.
8. The operator of the golf cart with all traffic rules and regulations adopted by the State of North Carolina and the Town of Red Springs which govern the operation of motor vehicles.
9. Carts will adhere to all traffic flow patterns and will operate on the right side of the roadway.
10. Carts shall not operate on the sidewalks.
11. Carts shall not be operated on private property without the permission and consent of the property owner.

(d) Inspection and Fees. All carts operated on the streets of the Town of Red Springs shall be inspected by the Red Springs Police Department and issued a permit prior to operation. The inspection by the Chief of Police or his/her designee will cover the following safety requirements and every cart operating on the Town of Red Springs streets shall have the following equipment and paperwork:

1. Permits/stickers issued to operators/owners of golf carts by the Red Springs Police Department.
2. Each owner shall have proof of ownership and liability insurance and a completed waiver of liability releasing the Town of Red Springs, its employees and affiliates from all liability that may arise as a result of operating a golf cart inside the Town of Red Springs. A current waiver of liability shall be on file with the Red Springs Police Department and shall be renewed annually along with the permit.
3. All carts shall meet the requirements or minimum standards of safety equipment as set forth in 74.03.
4. All cart operators shall present a valid driver's license.
5. Permits/stickers will be issued annually and are valid from July 1st of each year and expire June 30th of each year. The following fees shall apply:
    i. Inspection by Police Department: $25 annually (Includes permit/sticker)
    ii. Re-inspection by Police Department: $10 (If a cart fails initial inspection)

(e) Lost or Stolen Permit/Stickers. Lost or stolen permit/stickers are the responsibility of the owner. A police report must be filed in the event of a lost or stolen permit/sticker. The Chief of Police will have the discretion in determining whether a permit/sticker may be re-issued in the instance. If no record can be found on a previous application or the receipt of a permit/sticker, the Chief of Police may direct the applicant to reapply and to also resubmit any and all fees necessary before a replacement permit/sticker is issued.

(f) Failure to Comply. Any person who operates a golf cart in the Town of Red Springs and fails to receive or properly display a Town of Red Springs permit/sticker will be subject to all applicable state laws, in addition to being in violation of this chapter.

(g) Paperwork Maintained by Police Department. Golf cart owners must complete a registration form, waiver of liability form and provide a copy of the proof of liability prior to the golf cart being inspected. The complete forms and proof of insurance will be maintained by the Red Springs Police Department.

(h) Enforcement. It shall be the policy of the Red Springs Police Department to issue a uniform citation against any person the office has probable cause to believe has violated this chapter.

(i) Penalty. Any act constituting a violation of this chapter or a failure to comply with any of its requirements shall subject the offender, upon conviction, guilty of a misdemeanor and subject to a fine not to exceed $50.00.

(Ord. #14-01, 7 -1-2014)

### *SECTION 4-137. – GOLF COURSES.*

Golf Courses shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) All golf course greens, tees and fairways shall be set back at least fifty (50) feet from any property line.
(b) All structures shall be setback at least one hundred (100) feet from any property line.

### *SECTION 4-138. – HAZARDOUS MATERIAL STORAGE AND TREATMENT.*

Hazardous material storage and treatment shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) The use shall comply with the Federal Resource Conservation and Recovery Act of 1976, as amended, [PL 94-580] and the North Carolina Solid Waste Management Act, as amended, (Article 13B. G.S. 130-166.16) for design, siting, and materials to be stored and treated.
(b) All storage, treatment, and loading facilities handling hazardous materials will be located at least 200 feet from any property line and at least 1,250 feet from any lot not located in an industrial district. The required buffer area shall contain a sufficient amount of natural or planted vegetation so that such facilities are screened visually from an adjoining property not located in an industrial district.
(c) A security fence at least eight (8) feet in height with a minimum 9-gauge fabric and 3 strands of barbed wire shall surround all facilities for the storage and handling of hazardous materials.
(d) Vehicular access to the operation will be provided only by way of a U.S. or N.C. numbered highway.
(e) All surface water and groundwater on the property will be protected so as to minimize, to the greatest possible extent, the probability of contamination by hazardous materials.
(f) All sanitary sewer systems on the property will be protected so as to minimize, to the greatest possible extent, the probability of contamination by hazardous materials.

### *SECTION 4-139. – HEALTH CARE FACILITIES/NURSING HOMES/CONVALESCENT HOMES.*

Health care facilities including hospitals shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) As defined by NCGS 131E-256, all health care facilities must be licensed by the State of North Carolina.
(b) Health care facilities are subject to all local and federal regulations and the regulations of the North Carolina Administrative Code.
(c) The facility must include at least 20,000 square feet. Existing uses as described above which do not meet the 20,000 square foot minimum requirement at the time of the adoption of this Ordinance may expand or be reconstructed provided such expansion or reconstruction meets the minimum dimensional requirements of the district in which located.
(d) Where permitted in a residential district, the location, design, and operation of the health care facility must not alter the residential character of the neighborhood. The facility must retain a residential character, which must be compatible with the surrounding neighborhood. New buildings must be non-institutional in design and appearance and physically harmonious with the neighborhood in which they are located considering such issues as scale, appearance, density, and population.
(e) One parking space for each two residents and one space per employee calculated on the number of employees on the maximum person shift are required.

### *SECTION 4-140. – HOME OCCUPATIONS.*

Home Occupations shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Purpose: It is the intent of this section to recognize that certain commercial activities can be operated within a residential dwelling with no or minimal adverse impact upon surrounding neighbors. It is also recognized that the conduct of other business operations as home occupations are desirable to selected occupants of dwellings in residential districts, however, such business activities may cause increased traffic, noise, etc., in the neighborhood but if controlled, may be compatible with residents of the neighborhood.

(b) Not over twenty-five (25)percent of the total actual floor area of the dwelling or five hundred (500)square feet, whichever is less, shall be used for a home occupation.No materi- al may be stored except within a completely enclosed building.Any storage shall be included in the allowable space for the home occupation.

### *SECTION 4-141. – INTERNET CAFES AND COMPUTER GAMING ESTABLISHMENTS.*

Internet Cafes and Computer Gaming Establishments shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

Internet cafes and gaming establishments have been banned by current North Carolina Law in a decision upheld by the North Carolina Supreme Court in December 2012.

### *SECTION 4-142. – ITENERANT MERCHANTS AND FOOD VENDORS.*

Itinerant merchants and food vendors shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) No itinerant merchant, peddler, food vendor or flea market operator shall conduct any business of any kind whatsoever within the corporate limits of the Town of Red Springs without first obtaining from the Town a permit to do so.
(b) Itinerant merchant, peddler, food vendor or flea market operator shall be defined as a person, persons or entity which does not have a regular City Privilege License and does not own a properly zoned area within the Town of Red Springs to conduct a business on a permanent basis or who does not have a long-term lease of a similar property for the aforesaid purpose. Further.
(c) Food vendor shall mean a seller of farm produce, fruits, vegetables, honey, hams, sausage, bacon or the like in an unprepared state.
(d) Applications for said permit shall be on a form as developed by the Town and approved by the Town Attorney, but at a minimum shall require:
    1. Name, address and telephone number of the applicant and any proposed employees or representatives of the applicant.
    2. A description of the items to be offered to the public for sale.
    3. A summary of how, in the general course of business, these items are obtained by the applicant for resale.
    4. A listing, with street addresses of all locations in which the applicant has conducted business in the last year (inside or outside of the State of North Carolina).

5. A description with street address of the proposed location for said activity within the town of Red Springs, including written and signed authorization of the property owner for the applicant to conduct said activity on his or her property.
6. Such information, as is allowed by law, to assist in the conduct of a criminal background investigation of the applicant or his proposed employees or representatives.
7. A detailed explanation of the applicant's accounting procedures as it relates to the collection and payment of sales tax.
8. A bond by a licensed surety or a cash deposit in the amount of $10,000.00 to protect the public from fraud, in such a form as is approved by the Town Attorney, which shall remain in effect for three years after last conduct of business within the Town of Red Springs.

(e) An application fee of $100.00 shall be paid at the time the application is made to cover the expenses of reviewing the application and administering the ordinance as it relates to the applicant.

(f) The following activities are specifically exempted from this ordinance: Any food vendors operating within a government established farmer's market.

(g) Food carts, trucks, or trailers which sell prepared foods in various locations in Town, Mobile Prepared Food Vendors, must:

1. Be approved by the Local Board of Health. Said approval must include, but not limited to, inspection of any cooking, food handling or washing equipment, review and approval of the employee's food handling and sanitation training and review and inspection of the food vendor's preparation and storage methods.
2. Have a permanent food preparation and equipment cleaning facility within the Town of Red Springs.
3. Before serving any food, shall pay a $250.00 annual license fee to cover the expenses of reviewing the application and administering the ordinance as it relates to the applicant.
4. Have restaurateur and general liability insurance not less than $50,000 with a deductible of no less than $500.00.
5. Fill out an application form developed by the Town and approved by the Town Attorney providing the following information:
    i. Name, address and telephone number of the applicant and any proposed employees or representatives of the applicant.
    ii. A description of the items to be offered to the public for sale.
    iii. A listing, with street addresses of all locations in which the applicant has conducted business in the las year (inside or outside of the State of North Carolina).
    iv. Such information, as is allowed by law, to assist in the conduct of a criminal background investigation of the applicant or his/her proposed employees or representatives.
    v. A detailed explanation of the applicant's accounting procedures as it related to the collection and payment of sales tax.

(h) Any denial of a permit by the Town may be appealed to the Town Board of Commissioners in writing by the applicant, addressed to the Mayor, if the same is done within 30 days of the denial.

(i) Nothing in ordinance shall prohibit a local charitable, civic, school or church group from engaging in any such activity regulated herein if conducted only on an annual or semi-annual basis.

(j) Violation of this ordinance is a misdemeanor and may be enforced by any means available to the Town for enforcement of its ordinances: criminal, civil or equitable.

(Ord. #13-04, 1-7-2013)

### SECTION 4-143. – LANDFILLS AND INCINERATORS.

Landfills and incinerators shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) No refuse shall be deposited and no building or structure shall be located within 150 feet of the nearest property line.

(b) The operation of a landfill or incinerator shall be in accordance with applicable State regulations.

### SECTION 4-144. – MANUFACTURED HOME SALES LOTS/OFFICES.

Manufactured Home Sales Lots and Offices shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) The manufactured homes located on a sales lot shall not occupy an area greater than fifty (50) percent of the total lot area.

(b) Individual manufactured homes located on a sales lot shall be set back fifty (50) feet from the public street right-of-way.

### SECTION 4-145. – MULTIFAMILY HOUSING.

Multifamily housing, also known as housing with three or more dwelling units, is permitted as a conditional use in the Residence districts. Supplemental regulations governing multifamily housing include the following:

(a) Dimensional requirements:

| | |
|---|---|
| Minimum lot area | 20,000 square feet (In no case may more than ten (10) dwelling units be constructed per gross acre) |
| Lot Size Minimum Area/Unit | 5,000 square feet |
| Minimum lot width | 100 feet |
| Minimum lot depth | 120 feet |
| Minimum front yard setback | 25 feet |
| Minimum side yard | 15 feet |
| Minimum rear yard | 25 feet |
| Maximum lot coverage | 25 percent |
| Maximum building and structure height | 35 feet |

(b) Accessory buildings. Accessory buildings must be located in the rear yard and not less than ten (10) feet from any adjoining property line and not less than twenty (20) feet from any street right-of-way. Detached

carports and garages must be located in the side or rear yard and must meet all required setbacks for the principal building.

(c) Above and In-Ground Swimming Pools. Swimming pools must be located in the rear yard and not less than ten (10) feet from any adjoining property line and not less than twenty (20) feet from any street right-of-way

(d) Corner Lots. On corner lots the side yard abutting the side street shall not be less than thirty (3) feet. All accessory buildings and construction, not including fences and walls, on the side of the lot abutting the side street shall not be closer to the lot line abutting on that side street than the distance required for front yards of lots fronting on such side street.

(e) Corner Visibility. No planting, fence, or other obstruction to visibility of vehicles shall be erected, maintained, or allowed to exist within the range of three (3) to seven (7) feet above street level closer to the intersection of any two (2) street lines than fifteen (15) feet.

(f) Off-Street Parking. Off-street parking shall be as required in Article X.

(g) Signs. Signs shall be as required or permitted in Article XI.

(h) Zero Lot Lines. Where individual dwelling units are to be sold in a multi-family building and it is desired to deed the land under the dwelling unit to the purchaser, such as in the case of town houses or patio homes, zero lot line lots may be used, as long as the required yards are maintained around the building. In such a case, the individual lots are not required to meet the above stated dimensional requirements, but the development becomes a subdivision and a planned unit development and must be approved as such under the subdivision regulations as well as the zoning ordinance.

### *SECTION 4-146. – PARKING AND STORAGE OF AUTOMOBILES WITHOUT CURRENT PLATES.*

Automotive vehicles or trailers of any kind or type without current license tags shall not be parked or stored in any residentially zoned property other than in a completely enclosed building.
('70 Code, 2009 S-5 Supplement)

### *SECTION 4-147. – SATELLITE DISH ANTENNA.*

Satellite Dish Antenna shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Only one (1) satellite dish antenna shall be allowed per premises in residential districts.
(b) In all zoning districts, a satellite dish antenna shall be considered an accessory structure and shall meet the setback requirements for accessory structures.
(c) In all nonresidential districts, a satellite dish antenna may be installed on the roof of the principal structure. In all residential districts, a satellite dish antenna may be installed on the roof of the principal residence or accessory structure provided the overall diameter of the satellite dish antenna is three feet or less.
(d) A satellite dish antenna shall be permanently ground or roof mounted (where permitted), and no satellite dish antenna shall be installed on a portable or moveable structure except to transport a satellite dish antenna to a

permanent site or to provide a temporary on-site satellite dish antenna for testing purposes not to exceed seven days in duration.

(e) No satellite dish antenna shall exceed an overall diameter of 12 feet nor an overall height of 20 feet above existing grade when located on the ground, and when located on the roof of a building in a nonresidential district, no satellite dish antenna shall exceed more than 10 feet above the highest point of the roof or parapet wall. When located on the roof in a residential district, no satellite dish antenna shall extend more than four feet above the highest point of the roof.

(f) All satellite dishes shall be installed in compliance with FCC regulations.

### *SECTION 4-148. – STORAGE FACILITIES THAT ARE SELF-SERVICE.*

Storage Facilities that are self-service shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Self-service storage facilities shall be limited to dead storage (such as furniture or files) only.

(b) No outside storage will be permitted.

(c) The sale of any item from or at a self-service storage facility shall be strictly prohibited. It shall be unlawful for any owner, operator or lessee of any self-service storage facility or any portion thereof to offer for sale, or to sell any item of personal activity of any kind whatsoever other than leasing of the storage units.

(d) The vehicle accommodation area of such use shall be improved with either asphalt or concrete.

(e) A driveway aisle for self-service storage shall be a minimum of twenty-four (24) feet. A driveway aisle where access to storage units is only one side of the aisle may be twenty (20) feet in width.

(f) All outdoor lights shall be shielded to direct light and glare only onto the self-service storage premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare shall be deflected, shaded, and focused away from all adjoining uses.

### *SECTION 4-149. – STREET ACCESS FOR LOTS WITH LIMITED ACCESS TO A PUBLIC STREET.*

No building shall be erected on a lot which does not abut a public street for a distance of a t least 20 feet, provided that in a designated shopping center in a commercial district, or a planned project in a residential district, a building may be erected adjoining a parking area or other dedicated open space, used in common with other lots.
(‘70 Code, 2009 S-5 Supplement)

### *SECTION 4-150. – SWIMMING POOLS.*

Swimming pools shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Pool construction shall conform to the North Carolina State Building and Plumbing Codes. Any accessory building which houses pumping and filtering equipment must conform to the provisions of this Ordinance. Further provided that all swimming pools, inclusive of paved decks and all accessory buildings shall be located no closer than eight (8) feet to any property line.

(b) No swimming pool shall be located in the front yard of any residence.

(c) Fiberglass and plastic pools may be permitted provided the same meet accepted safety and construction standards.
(d) The Public Works Department may regulate the hours for filling of pools and no pool shall be drained during periods of rainfall.
(e) Owners of pools shall regulate their use in such a manner as not to create undue noise or disturbance.
(f) Construction Requirements.
    a. No exposed electric wires shall be nearer than five (5) feet from the water's edge, nor shall any exposed and permanently installed, electric wire within twenty-five (25) feet from the water's edge of the pool be less than ten (10) feet above the ground, nor shall wires of any kind cross or be over the water surface unless otherwise approved by the Town Inspector.
    b. There shall be no cross-connection of the town water supply with any other source of water supply for the pool. The line from the town water supply to the pool shall be protected against back flow of water by means of an air gap and shall discharge at least six (6) inches above the maximum high water level of the make-up tank or the pool.
    c. The drain line for the pool may be connected to the town sewer system if the following provisions are complied with:
        i. Pool drain shall be connected to the storm water, if one is available.
        ii. Where a storm sewer is not available, the pool drain may be connected to a sanitary sewer or a combined sewer subject to the approval of the Public Works Department provided an air gap discharge connection is installed.
        iii. All swimming pools to be constructed or which are already constructed shall be enclosed by a fence which shall be at least four (4) feet in height. The gates shall be of a self-closing and latching type with the latch on the inside of the gate, not readily available for children to open. Provided, however, that if the entire premises of the residence is enclosed, then this provision may be waived by the Code Administrator upon inspection and approval of the residence enclosure.

### *SECTION 4-151. – TATTOO PARLORS.*

Tattoo parlors shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) No Tattoo Parlor shall be located within 1,000 feet of a church, school, playground or other Tattoo Parlor and a minimum of 500 feet of road frontage shall separate all Tattoo Parlors from residential zoning districts.
(b) Signage for Tattoo Parlors shall meet all requirements for signage in the General Business Zoning District (GB District).
(c) Tattoo Parlors shall only be permitted to conduct business between the hours of 8:00 am and 11:00 pm.

### *SECTION 4-152. – TEMPORARY USES- GENERALLY.*

Temporary uses shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) All temporary use/sales require the issuance of a zoning permit. The Code Administrator may impose requirements in the zoning permit intended to ensure compliance with this Ordinance.

(b) A zoning permit for a temporary use may also authorize one temporary sign, not to exceed 40 square feet in sign surface area, associated with the temporary use and conforming to the Town's Sign Ordinance.

(c) Temporary sales are permitted on CB, GB and GB-1 zoned property provided that no more than four (4) events occur within a 365-day period on an individual parcel. The operator of each temporary sales event shall have the written permission of the property owner or manager of the principal business located on the property on which the temporary sale is to be conducted.

(d) Temporary uses for which the primary purpose is not the sale of commodities shall have a maximum specified time (specified by zoning permit) limit. Such temporary uses shall include assembly of people for entertainment, holiday festivals, social, political, religious or similar activities. Temporary uses, described in this section, which include the sale/use of alcoholic beverages shall submit all ABC permits with the application for a zoning permit. No permanent building shall be located on any lot for the exclusive purpose of operating any temporary use(s). Temporary uses may be unlike the customary or usual activities generally associated with the property where the temporary use is to be located. Any use intended for temporary and limited duration, operated as an accessory or principal use, shall be subject to applicable location, setback, parking, land use and other standards for the district in which it is located.

(e) Temporary sales conducted on the grounds of a church, synagogue, temple, or other religious building or schools/colleges for the purpose of raising funds for the support of the principal use are considered accessory services. The religious institution or school/college must request the zoning permit.

(f) Temporary buildings or modular offices shall not exceed 60 square feet in area and shall contain approved restroom facilities.

(g) Schedule for Permits and Permit Renewals shall be as shown in the table on the following page:

| Type of Temporary Use | Minimum Length of Permit | Lapse of Time Before Renewal | Maximum Days Allowed Per Year |
|---|---|---|---|
| Agricultural Products including farm produce, jams, jellies, pickles and the like | 7days | None | 180 days |
| Christmas Trees, Pumpkins and Other Holiday Season Live Items | 45 days | None | 90 days |
| Classroom Buildings | Two years | None | 365 days |
| Contractor Office, Equipment Sheds, Laydown yards | 30 days | None | 365 days |
| Fireworks Sales | 30 days | 60 days | 60 days |
| Real Estate Office | 6 months | None | 365 days |
| Yard Sales | 2 days | 5 days | 60 days |

### *SECTION 4-153. – TEMPORARY STORAGE.*

Temporary Storage facilities shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Dumpsters or temporary storage facilities incidental to a natural disaster, or construction with a valid building permit, shall be exempt from these regulations.
(b) Temporary storage facilities intended to be in place for greater than thirty (30) days shall require a zoning permit.
(c) With the exception of the Industrial (I) zoning district, temporary storage facilities may be placed on a property a maximum of any ninety (90) day period during one calendar year from its initial placing on a property.
(d) No temporary storage facility shall encroach into any public right-of-way.
(e) Mobile homes and travel trailers may not be used for storage.
(f) No temporary storage facility shall be used as living space and/or a permanent accessory building.

### *SECTION 4-154. – TEMPORARY HEALTH CARE STRUCTURES.*

Temporary Health Care Structures shall be regulated as to location in the following manner in addition to other requirements of this Ordinance in accordance with NC Gen Stat. § 160A-383.5.

(a) Definitions.

*Activities of daily living.* Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.

*Caregiver*. An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.

*First or second degree relative*. A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.

*Mentally or physically impaired person*. A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.

*Temporary family health care structure.* A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that:

(i) is primarily assembled at a location other than its site of installation,
(ii) is limited to one occupant who shall be the mentally or physically impaired person,
(iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

(b) Structure is Permitted Accessory Use.

1. The town shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.

2. The town shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of

the residence of the individual and is used to provide care for the mentally or physically impaired person.

(c) One Structure per lot. Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structure shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except as otherwise provided in this section.

(d) Setbacks. Temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

(e) Permit Required. Any person proposing to install a temporary family health care structure shall first obtain a permit from the town.

(f) Annual Re-certifications. Annually, on the anniversary of the permit date, and for as long as the structure remains on the property, the owner or caregiver must provide evidence of compliance continued need for the structure. The evidence may involve the inspection by the town of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.

(g) Connection to Utilities. Any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Part 5 of this Article, as if the temporary family health care structure were permanent real property.

(h) Signage. No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

(i) Removal of Structure. Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used, or may be reinstated on the property within 60 days of its removal, as applicable.

(j) Revocation of Permit. The town may revoke the permit granted pursuant to subsection (e) of this section if the permit holder violates any provision of this section or G.S. 160A-202. The town may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.

(k) Tax. Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

### *SECTION 4-155. – TIRE SALES; TIRE STORAGE.*

Tires and disposal of tires shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) All properties not in the business of selling tires shall:
    1. Store tires in an enclosed building or, if stored outdoors, tires shall be screened from view of the public right-of-ways and adjacent properties.
    2. Protect tires stored outside from rain so that a buildup of water which is a haven for mosquitos is not created.
    3. Store no more than five (5) tires at one time.

(b) Commercial and industrial businesses which sell new and/or used tires shall:
    1. Store tires in an enclosed building or, if stored outdoors, tires shall be screened from view of the public right-of-ways and adjacent properties.
    2. Protect tires stored outside from rain so that a buildup of water which is a haven for mosquitos is not created.
    3. Store no more than one hundred fifty (150) tires at one time.
    4. Mark all tires stored outside with the date that tire was placed in storage so that the date can be clearly seen by an inspector.
    5. Maintain stored tires for no more than 30 days.
    6. Stack tires neatly no more than eight (8) tires high.

(Ord. adopted 4-1-2014)

### *SECTION 4-156. – UNATTENDED DONATION CONTAINERS.*

Unattended Donation Containers shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Appearance: The container shall be waterproof, covered by a sturdy lid, and made of a durable materials such as metals or wood. The name and phone number of the party responsible for maintenance shall be posted on the container.

(b) Location: Such containers are only permitted at the operational site of a company or organization that collects used clothing or other household materials for resale or donation as a primary business function.

(c) Existing Containers: Prohibited donation containers that exist at the time this section is adopted shall be removed within sixty (60) days of adoption.

### *SECTION 4-157. – WALLS, LANDSCAPE SCREENINGS AND FENCES.*

Fences and walls shall be regulated as to location in the following manner in addition to other requirements of this Ordinance:

(a) Residential Districts: Fences and walls may be permitted in any required yard, or along the edge of any yard, subject to the following limitations:
    1. Fences and walls in the rear yard of residential lots shall not exceed six (6) feet in height.
    2. Fences and walls in front and side yards shall not exceed four (4) feet in height.
    3. The material of the fence or wall shall be chain link, privacy screening, wrought iron, wood, stucco, brick, stone or a combination of these.

4. Fences along any property line shall not be constructed so that they obstruct sight distance at a driveway for residents or adjoin property owners or at intersections.
5. The setback requirements contained in these regulations shall not prohibit any necessary retaining wall nor prohibit any planted buffer strip, fence or wall in any district.
6. These restrictions shall not apply to a bona fide farm nor to recreational facilities.

(b) All other districts:

1. Fences and walls in the rear yard of residential lots shall not exceed six (6) feet in height.
2. The material of the fence or wall shall be chain link, privacy screening, wrought iron, wood, stucco, brick, stone or a combination of these.
3. If the area to be fenced is to be used primarily for storage, then the chain link fences constructed along streets or public rights-of-way shall have slats installed to screen the area from public view.
4. Fences constructed on corner lots shall be angled at street intersections, so that adequate sight distance is provided.
5. These restrictions shall not apply to a bona fide farm nor to recreational facilities.

(c) Signs:

1. Permanent signs are not allowed on fences in the commercial districts.

(Ord. #99-01, 1-5-1999)

(d) Landscape Screening Required Where Districts Abut One Another. Where a multi-family, business/commercial, office and professional or industrial zoning district abuts directly upon a single family residential zoning district, or a residentially developed property in any zoning district, a landscaped buffer as defined below, shall be provided and maintained along its entire length by the users of the said multiple family business, commercial, or industrial zoned or developed property. Such buffer shall be a strip of land not less than 20 feet in width which is planted and maintained with evergreens such as spruce, pines or firs from a five- to six-foot initial height, so as to create a permanent fully screened buffer; or a hedge of evergreens not less than four feet in height, so as to create a permanent fully screened buffer. All plants, when initially planted shall reach such required height within five years of approval of the site plan by the Town. The remainder of the landscaped area which is not planted with the aforementioned stock shall be planted in a permanent well-kept lawn. All landscaping shall be continuously maintained in a healthy growing condition, neat and orderly in appearance. Such walls or protective screening for shielding off-road parking or storage areas shall not be required when such areas are located more than 200 feet from such abutting residential property lines or zoning district line.

***SECTION 4-158- 4-165. –. RESERVED.***

# TITLE 5. – GENERAL OFFENSES, NUISANCES, AND MISCELLANEOUS PROVISIONS

## CHAPTER 1. - OFFENSES

### ARTICLE 1. – OFFENSES AGAINST PUBLIC PEACE AND SAFETY

#### *SECTION 5-1. – DISORDERLY CONDUCT.*

Any person shall be guilty of an offense of disorderly conduct if he or she:

a) Acts in a violent or tumultuous manner toward another, whereby any person is placed in fear of safety for his life, limb or health;

b) Acts in a violent or tumultuous manner toward another, whereby public property or property of any other person is placed in danger of being destroyed or damaged;

c) Endangers lawful pursuits of another by acts of violence, angry threats and abusive conduct;

d) Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another or public property;

e) Assembles or congregates with another or others for the purpose of causing, provoking or engaging in any fight or brawl;

f) Jostles or roughly crowds or pushes any person in any public place;

g) Collects in bodies or in crowds for unlawful purposes;

h) Assembles or congregates with another or others for the purpose of or with the intent to engage in gaming;

i) Frequents any public place with intent to obtain money from another by an illegal and fraudulent scheme, trick, artifice or device;

j) Assembles with another or others for the purpose of engaging in any fraudulent scheme, device or trick to obtain any valuable thing in any place or from any person in the town or aids or abets therein;

k) Utters, while in a state of anger, in the presence of another any lewd or obscene words or epithets;

l) Frequents any place where gaming or the illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed or tolerated;

m) Acts in a dangerous manner toward others;

n) Uses "fighting words" directed towards any person who becomes outraged and thus creates turmoil;

o) Assembles or congregates with another or others for the purpose of doing bodily harm to another;

p) By acts of violence, interferes with another's pursuit of a lawful occupation;

q) Congregates with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by a peace officer or other person having authority;

r) Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition.

('70 Code, 2009 S-5 Supplement, § 14-8)

***State Law Reference—*** Disorderly conduct at public buildings and grounds, G.S. § 14-132.

### *SECTION 5-2. – BREAKING THROUGH POLICE LINES OR BARRIERS.*

At the time of any public parade, accident, riot, public peril, or other circumstances causing people to congregate or assemble, it shall be unlawful for any person to enter, break through, or remain within the danger lines or other bounds established by the police or by or under the direction of any authorized town official for the preservation of public safety, peace, and order, unless such person be duly authorized by an officer there in charge.

('70 Code, 2009 S-5 Supplement, § 14-4) (Ord. passed 7-15-55)

### *SECTION 5-3. – INTERFERING WITH TOWN OFFICERS AND EMPLOYEES*

No person shall carelessly or willfully interfere with, hinder, or obstruct any officer or employee of the town who is engaged in, enroute to, or returning from, the performance of official duty, whether such interference, hindrance, or obstruction is by threat, assault, or otherwise.

('70 Code, 2009 S-5 Supplement, § 14-24)

### *SECTION 5-4. – CURFEW FOR MINORS.*

(A) It is a curfew violation for a child 13, 14, 15, 16, or 17 years of age to be in a public place:

(1) Between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday;

(2) After 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or

(3) Before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(B) It is a curfew violation for a child under 13 years of age to be in a public place after 10:00 p.m. or before 5:00 a.m. on any day.

(C) This section does not apply to a child who is:

(1) Accompanied by his parent, guardian, or custodian;

(2) Accompanied by an adult specified by his parent, guardian, or custodian; or

(3) Participating in or returning from lawful employment or a lawful athletic, educational, entertainment, religious, or social event.

### *SECTION 5-5. – BEGGING AND SOLICITING.*

No person shall beg or solicit on the streets or in other public places of the town or in the entrances or corridors to any public building in the town without a permit issued to him/her by the town.

***State Law Reference—*** Authority to regulate begging, G.S. § 160A-179.

(Ord. 03-25, passed 6-3-03)

### SECTION 5-6. – DISCHARGE OF FIREARMS AND OTHER WEAPONS.

Except as authorized in the subsections below, it shall be unlawful for any person to shoot or project any stone, rock, shot or other hard substance by means of a slingshot, bean shooter, pop-gun, bow or other similar contrivance; to fire any pistol, rifle, pellet gun, air gun or any firearm; or to discharge any fireworks within the town, on or off his premises.

(a) This section shall not be construed to prohibit:

(1) Any town law enforcement officer or authorized employee of the town in the division of animal control from discharging a firearm in the performance of his duty;

(2) Any sworn law enforcement officer of the town who is authorized to do so by the police chief from hunting deer within the corporate limits of the town using a shot gun so long as such hunting takes place with the written consent of the owner of the property where the hunting occurs and in a manner that is consistent with all applicable regulations of the State of North Carolina and the Red Springs Police Department.

(3) Any person from discharging a firearm when lawfully defending his person or property.

(4) The use of pyrotechnics within the town pursuant to permits issued in accordance with N.C.G.S.14-54.

('70 Code, 2009 S-5 Supplement, § 14-34(a)) (Ord. passed 1912; Am. Ord. 9, passed - -)

***State Law Reference—*** Selling weapons to minors, G.S. § 14-315; Permitting children to use firearms, G.S. § 14-316; Sale of certain weapons without permit forbidden, G.S. § 14-402; Authority to regulate discharge of firearms, G.S. § 160A-189; Authority to regulate possession and use of pellet guns, G.S. § 160A-190.

### SECTION 5-7. – DISTURBING PUBLIC MEETINGS.

No person shall whistle, sing, shout or talk or make any noise at any concert, play, school commencement or other entertainment or public meeting or near the places where such are held, anywhere within the corporate limits, so as to disturb or annoy a person taking part in or attending the same.

### SECTION 5.8. – LOITERING.

The following provision shall apply to loitering:

(a) For the purposes of this section, "public place" means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot, or transportation facility, or the doorways and entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the town.

(b) For the purposes of this section, a "known unlawful drug user, possessor, or seller" is a person who has, within the knowledge of the arresting officer, been convicted in any court within this state of any violation involving the use, possession or sale of any of the substances referred to in the North Carolina Controlled Substances Act, G.S. section 90-86 et seq., or has been convicted of any violation of any substantially similar laws of any political subdivision of this state or any other state or of federal law.

(c) It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the purpose to engage in a violation of any subdivision of the North Carolina Controlled Substances Act, G.S. section 90-86 et seq. Such circumstances shall include:

(1) Repeatedly beckoning to, stopping, or attempting to stop passersby, or repeatedly attempting to engage passersby in conversation; or
(2) Repeatedly stopping or attempting to stop motor vehicles; or
(3) Repeatedly interfering with the free passage of other persons; or
(4) Such person is a known unlawful drug user, possessor, or seller; or
(5) Such person behaves in such a manner as to raise a reasonable suspicion that he is about to engage in or is engaged in an unlawful drug-related activity; or
(6) Such person repeatedly passes to or receives from passersby whether on foot or in a vehicle, money or objects; or
(7) Such person takes flight upon the approach or appearance of a police officer; or
(8) Such person is at a location frequented by persons who use, possess, or sell drugs; or
(9) Any vehicle involved is registered to a known unlawful drug user, possessor, or seller, or is known to be or has been involved in drug-related activities.

(d) Violation of any provision of this section shall be a misdemeanor.

### *SECTION 5-9. – NOISE.*

The making, creating, or maintenance of such excessive, unnecessary, unnatural, or unusually loud noises, which are prolonged, unusual, and unnatural in their time, place and use, affect and are detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the town.

The necessity, in the public interest, for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of, and for the purpose of, securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the town and its inhabitants.

**State Law Reference—** Authority to regulate noise, G.S. § 160A-184.

### *SECTION 5-10. – NOISE-GENERAL.*

It shall be unlawful for any person to make, continue, or cause to be made or continued, any excessive, unnecessary, or unusually loud noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others within the limits of the town.

### *SECTION 5-11. – NOISE-SPECIFICALLY PROHIBITED.*

In addition to the general prohibitions set out in *Section 5-10* above, and unless otherwise exempted, the following specific acts or the causing or permitting thereof, among others, are declared to be loud, disturbing, unnecessary, and unlawful noises in violation of this chapter, but such enumeration shall not be deemed to be exclusive, namely:

a) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, truck or other vehicle on any street or public place of the town, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device, except one operated by hand or electricity; the use of any horn, whistle, or other device operated by engine exhaust; and the use of any such signaling device when traffic is, for any reason, held up.

b) *Radios, televisions, cassette players, phonographs, etc.* The using, operating, or permitting to be played, used or operated, of any radio, television, receiving set, drum, musical instrument, phonograph, cassette player, or other similar machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine, or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.

c) *Noise from radios, tape players, loudspeakers, or sound amplifiers in public places.*

1. No person shall play, use, or operate, or permit to be played, used or operated, any radio, tape recorder, cassette player, or other machine or device for reproducing sound, if it is located in or on any of the following:

   a. Any public property, including any public street, highway, building, sidewalk, park, thoroughfare, or public or private parking lot; or

   b. Any motor vehicle on a public street, highway, public space, or within the motor vehicular area of any public or private parking lot or park; and if, at the same time, the sound generated is audible at a distance of thirty (30) feet from the radio, tape recorder, cassette player, or other machine or device that is producing the sound.

2. Possession by a person or persons of any radio, tape recorder, cassette player or other machine or device for reproducing sound, as enumerated in subsection (3)a.

above, shall be prima facie evidence that such person operates, or those persons operate, the radio, tape recorder, cassette player, or other machine or device for reproducing sound.

d) *Loudspeakers, amplifiers for advertising.* The using, operating, or permitting to be played, used, or operated, of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure, except that this prohibition shall not apply to the playing of music during the month of December within the area zoned B-1 on the official zoning map.

e) *Loudspeakers generally.* Using or operating, for any purpose, any loudspeaker, loudspeaker system, or similar device between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and 10:00 p.m. and 10:00 a.m. on weekends and holidays in areas within or adjacent to residential, commercial, or noise-sensitive areas, except for any noncommercial public speaking, public assembly, or other activity for which a special permit has been issued by the chief of police.

1) As to places of public entertainment having a capacity of 1,000 or more persons, operate or allow the operation of any sound amplification equipment, so as to create sound registering more than 65 db (A) between 9:00 a.m. and 9:00 p.m. or 50 db (A) between 9:00 p.m. and 9:00 a.m., as measured anywhere within the boundary lines of the nearest residentially occupied property, except in accordance with a permit obtained from the noise control officer.

(Ord. 92- , passed - -92; Am. Ord. 02-26, passed 7-2-02)

f) *Street sales.* Offering for sale, selling anything, or advertising by shouting or outcry within any residential or commercial area or noise-sensitive zone of the town, except by special permit issued by the chief of police.

g) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 10 p.m. and 7 a.m., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

h) *Animals.* Owning, possessing, or harboring any animal or bird which frequently, or for continued duration, howls, barks, meows, squawks, or makes other sounds which create excessive and unnecessary noise across a residential or commercial real property line or within a noise-sensitive zone. This provision shall not apply to public zoos or private animal

attractions operated for profit to which the public has general admission and which are regulated by the town. This section shall not apply to dogs.

i) *Steam whistles.* The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of fire or danger, or upon request of proper town authorities.

j) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises there from.

k) *Defect in vehicle or load.* The use of any automobile, truck, motorcycle, or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, rattling, or other noise.

l) *Loading and unloading.* Loading and unloading, opening, closing, or other handling of boxes, crates, containers, equipment, building materials, garbage cans, or similar objects between the hours of 7:00 p.m. and 6:00 a.m. on weekdays and 7:00 p.m. and 8:00 a.m. on weekends or holidays in or within fifty (50) yards of a residential area or noise-sensitive zone.

m) *Construction and demolition.* Operating or causing the operation of any tools used in construction, drilling, repair, alteration, or demolition work between the hours of 9:00 p.m. and 6:00 a.m. on weekdays, or between 9:00 p.m. and 9:00 a.m. on weekends or holidays in or within fifty (50) yards of any residential area or noise-sensitive zone, except for emergency work by public service utilities or by special permit issued by the chief of police. This section shall not apply to the use of domestic power tools.

n) *Powered model vehicles.* Operating, or permitting the operation of, powered model vehicles:

1. Between the hours of 7:00 p.m. and 6:00 a.m. on weekdays and 7:00 p.m. and 10:00 a.m. on weekends or holidays in or within one hundred (100) feet of any residential area or noise-sensitive zone; or
2. In such manner as to exceed the levels set for public space land use, measured at a distance of not closer than one hundred (100) feet (eighty (80) meters) from any point on the path of a vehicle operating on a public space or public right-of-way.

o) *Emergency signaling devices.* The intentional sounding outdoors of any fire, burglary, or civil defense alarm, fire, whistle, or similar stationary emergency shall not occur before 7:00 a.m. or after 7:00 p.m., and any testing shall use the minimum cycle test time appropriate for such devices, in no case to exceed sixty (60) seconds. Testing of the complete emergency signaling

system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall occur only on weekdays and not before 7:00 a.m. or after 10:00 p.m., and shall be exempt from the time limit specified herein. The sounding, or permitting the sounding, of any exterior burglar or fire alarm or any motor vehicle burglar alarm, unless such alarm is automatically terminated within fifteen (15) minutes' activation, shall be prohibited.

p) *Motorboats.* Operating, or permitting the operation of, any motorboat in any lake, river, stream, canal, bay, or other waterway in such a manner as to cause unnecessary and excessive noise within a residential area or noise-sensitive zone.

q) *Noise-sensitive zones.* Those areas containing a hospital, nursing home, school, court, or other designated areas, provided that conspicuous signs are displayed indicating the presence of one (1) or more of such facilities, are noise-sensitive zones.

r) *Domestic power tools.* Operating, or permitting the operation of, any mechanically powered saw, drill, grinder, lawn or garden tool, or similar tool between 10:00 p.m. and 6:00 a.m. on weekdays, or 10:00 p.m. and 7:00 a.m. on weekends and holidays, unless such equipment is operated inside a building or other structure so that the sound there from does not travel across any residential real property line or noise-sensitive area. All such equipment shall be properly muffled and maintained in working order so as not to create excessive and unnecessary noise.

s) *Morning to evening.* The creation of any unreasonable loud, disturbing, and unnecessary noise in the town between the hours of 7:00 a.m. and 10:00 p.m., within one hundred (100) yards of a dwelling unit, house, trailer, or other building ordinarily occupied by another person, when such person who owns or is in control of such building and has not given prior consent, or within twenty-five (25) yards of a publicly maintained road or public vehicular area, is prohibited.

t) *Unmuffled Engine Compression Brake.* No person shall use an engine braking system inside the town limits of Red Springs which in any way is activated or operated by the compression of the engine of any such unit or part thereof, except in cases of emergency or is necessary for the protection of persons and/or property. The Town will identify the areas that engine braking is prohibited by posting signs approved by the NCDOT in well-defined open locations leading into the Town, and stating, “No Engine Braking Inside Town Limits”. Violation of this section constitutes a traffic infraction, and shall be punishable by a penalty set by the Ton Board. For the purposes of this section, “Unmuffled Engine Compression Brake” shall be defined as a motor vehicle brake which is activated or worked by the compression of the engine of a motor vehicle, and which is not effectively muffled to prevent excess noise”.

(Ord. #10-13, adopted 3-2-2010)

u) *Nighttime.* The creation of any unreasonably loud, disturbing, and unnecessary noise in the town between 10:00 p.m. and 7:00 a.m. the following morning, within one hundred (100) yards of a dwelling unit, house, trailer, or other building ordinarily occupied by another person, when such person who owns or is in control of such building has not given prior consent, or within twenty-five (25) yards of a publicly maintained highway or public vehicular area, is prohibited.

### *SECTION 5-12. – NOISE-STANDARDS FOR DETERMINING VIOLATION.*

The standards which shall be considered in determining whether a violation of Section 13-10. exists shall include, but shall not be limited to, the following:

a) The volume of the noise.
b) The intensity of the noise.
c) Whether the nature of the noise is usual or unusual.
d) Whether the origin of the noise is natural or unnatural.
e) The volume and intensity of the background noise, if any.
f) The proximity of the noise to residential sleeping facilities.
g) The nature and zoning of the area within which the noise emanates.
h) The density of inhabitation of the area within which the noise emanates.
i) The time of the day or night the noise occurs.
j) The duration of the noise.
k) Whether the noise is recurrent, intermittent, or constant.
l) Whether the noise is produced by a commercial or noncommercial activity.

### *SECTION 5-13. – NOISE-EXEMPTIONS.*

The following are exempt from the provisions of Section 13.10.:

a) Lawn mowers and agricultural equipment during daylight hours (7:00 a.m. to 10:00 p.m.) when operated with all the manufacturers' standard mufflers and noise-reducing equipment in use and proper operating condition.

b) Non-amplified crowd noises resulting from the activities such as those planned by student, governmental, or community groups.

c) Construction operations for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with the manufacturers' specifications and with

all standard equipment, manufacturers' mufflers, and noise-reducing equipment in use and in proper operating condition.

d) Noises of safety signals, warning devices, emergency pressure relief valves and bells and chimes of churches.

e) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.

f) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the town in accordance with the above. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above.

g) Noises made by persons having obtained a permit to use the streets.

h) All noises coming from the normal operations of aircraft (not including scale model aircraft).

### *SECTION 5-14. – NOISE-PERMITS FOR RELIEF FROM ALLOWABLE NOISE LEVEL LIMITS.*

Applications for a permit for relief from the maximum allowable noise level limits designated in Section 13.12, above, may be made in writing to the chief of police or his duly authorized representative. Any permit granted by the chief of police hereunder must be in writing and shall contain all conditions upon which such permit shall be effective. The chief of police or his duly authorized representative may grant the relief as applied for under the following conditions:

a) The chief of police may prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens, or other sound-attenuating devices.

b) Permits for entertainment. Permits may be granted for the purpose of entertainment under the following conditions:

1. The function must be open to the public (admission may be charged).
2. The function must take place on public property.
3. The function must be staged between the hours of 9:00 a.m. and 12:00 midnight.

c) Special permits for non-entertainment special purposes may be issued under the following conditions:

1. If the special purpose relates to the operation of a trade or business, that the special purpose not be in the ordinary course of that trade or business; or, if the special purpose does not relate to the operation of a trade or business, that the special purpose not be an ordinary event in the affairs of the applicant;

2. If the special purpose be a recurring purpose, that it not recur more often than four (4) times each calendar year;

3. That the special purpose be absolutely necessary to the operation of the applicant's trade or business; or, if the special purpose does not relate to the operation of the trade or business, that the special purpose be compatible with the ordinary activities of the neighborhood in which the special purpose is to occur;

4. Except in emergency situations, as determined by the chief of police, the special permit may be issued only between 7:00 a.m. and 12:00 p.m. on weekdays; and

5. The special permit may be issued for no longer than fifteen (15) consecutive days, renewable by further application to the chief of police.

d) Special Permits for Additional Amplification.

(1) Application. The application for a permit for additional amplification shall be submitted to the noise control officer at least ten working days in advance of the planned use, except in case of emergency. The applicant shall designate an individual person or persons who shall be in control of the sound amplification equipment and assure that its use complies with the terms of the permit.

(2) Notice of tentative approval. Upon tentative approval, the applicant for a permit shall be responsible for mailing or otherwise delivering to the occupants of each property within a 1,000-foot radius of the facility for which the permit has been granted, as shown on the tax maps of the county, a notice stating the date and hours of the event. The notice shall be delivered at least 72 hours in advance of the event. The permit shall not be actually granted and issued until the applicant submits an affidavit to the noise control officer that such notices have actually been mailed or otherwise delivered.

(3) Number of hours. No permit shall be issued which shall have the effect of allowing more than 20 hours of excess amplification per year at any place of public entertainment having a capacity of 1,000 or more persons or 10 hours of excessive amplification at any other location. Permits shall be tentatively approved and subsequently granted by the noise control officer in the order of receipt, unless permits for 20 or more hours have previously been issued for the same or other locations within a 1,000-foot radius of the facility in the same calendar year, in which event, the applicant shall elect whether to limit his request, so as to keep the years accumulated hours of excess amplification in that location below 20 hours or select another location.

(4) Not permitted in residentially occupied boundaries. In no event shall a permit be granted which allows the creation of sounds registering more than 70 db (A) anywhere within the boundary lines of the nearest residentially occupied property.

(5) Denial; exceptional permit. If an applicant has been denied a permit under this section and believes the denial is illegal by virtue of applicable state or federal laws, he shall promptly submit a copy of the denied permit application together with a short statement of the reasons he believes he is entitled to a permit to the Town Manager. The Town Manager shall have the discretion to grant an exceptional permit waiving location, time and/or db (A) requirements, upon his determination that the applicant has made a substantial showing of legal entitlement. Any such exceptional permit shall be promptly reported to the Board of Commissioners.

(Ord. 02-26, passed 7-2-02)

e) Exterior loudspeaker not permitted. No permit may be issued to permit the use of any loudspeaker or sound-amplifying device on the exterior of any building, except those used for emergency warnings.

f) Appeal. Anyone aggrieved by the provisions of this section shall have the right to appeal the decision of the chief to the Board of Commissioners. The appeal shall be in writing and filed with the town Clerk within ten (10) days after the decision of the chief of police. Upon receipt of a notice of appeal, the Board of Commissioners shall grant a hearing to the appellant at the next Board of Commissioners meeting, provided such notice of appeal is received by 5:00 p.m. on the Thursday before such Board meeting.

g) At the hearing before the Board of Commissioners, pursuant to an appeal as requested herein, the Board of Commissioners shall hold a public hearing to determine whether issuance of the permit would be detrimental to the public health, safety, and welfare of the community. If the Board of Commissioners determines that the issuance of the permit would not be detrimental to the public health, safety, and welfare, the Board of Commissioners shall specifically authorize the chief of police to issue the permit to the applicant. If the Board of Commissioners determines that the issuance of the permit would be detrimental to the public health, safety, and welfare of the community, the Board of Commissioners shall so notify the applicant, and the chief of police shall not issue the permit.

### *SECTION 5-15. – NOISE - ENFORCEMENT RESPONSIBILITY.*

The chief of police of the town shall have primary enforcement responsibility for Section 13.10 as they relate to stationary sources and as they relate to motor vehicle sources, provided that:

a) Powers of arrest or citation. Any law enforcement officer shall issue a citation for any violation under Section 13.10, except they may arrest for instances when:

(1) The alleged violator refuses to provide the officer with such person's name and address and any proof thereof as may be reasonably available to the alleged violator; or

(2) The alleged violator refuses to cease such illegal activity after being issued a citation.

### *SECTION 5-16. – NOISE - PENALTIES FOR VIOLATION.*

a) Any person, firm or corporation violating any provision of Section 13.10 of this Code shall be subject to a civil penalty in the amount of one hundred dollars ($100.00) for each offense, and separate offenses shall be deemed committed on each day during or on which a violation occurs or continues.

b) Any person, firm or corporation found to be in violation of any provision of Section 13.10 shall be issued a citation which shall, among other things:

(1) State upon its face the amount of the civil penalty and that it shall be paid within forty-eight (48) hours from and after such violations; or

(2) Notify such offender that failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of a debt for the stated penalty plus the cost of the action, to be taxed in the court.

c) If the penalty prescribed in subsection (a) above is not paid within forty-eight (48) hours, the town may initiate a civil action in the nature of a debt and recover the civil penalty and the cost of the action.

### *SECTION 5-17. – NOISE - SEVERABILITY.*

If any article, section, subsection, sentence or clause of Section 13.10 is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portions of Section 13.10.

### *SECTION 5-18. – OBSCENITY.*

It shall be unlawful for any person to do any obscene act in any public place or to write obscene language or to place obscene markings or drawings on any wall, building, street or sidewalk.

***State Law Reference—*** Obscenity generally, G.S. §§ 14-190.1—14-197.

### *SECTION 5-19. – PICKETING.*

Peaceful picketing, including demonstrating, in the furtherance of a lawful purpose shall be permitted in the town, provided the picketing is done under the following conditions:

(1) Picketing shall be conducted only on the sidewalks or other town-owned area normally used or reserved for pedestrian movement, including easements and rights-of-way, and shall not be conducted on the portion of a street used primarily for vehicular traffic.

(2) Not more than ten (10) pickets promoting the same objective shall be permitted to use the sidewalks within one (1) block in the town at any one (1) time.

(3) Such pickets may carry written or printed placards or signs not exceeding two (2) feet in width and two (2) feet in height promoting the objective for which the picketing is done, provided the words used are not defamatory in nature or would not tend to produce violence. The staff on which such placard is carried shall not exceed forty (40) inches in length, must be made of wood, shall not exceed three-fourths inch in diameter at any point and must be blunt at each end.

(4) Pickets must march in single file and not abreast and may not march closer together than fifteen (15) feet, except in passing one another.

(5) If pickets promoting different objectives desire to use the same sidewalk for picketing and such use would result in the presence of more than ten (10) pickets thereon, the chief of police shall allot time to each group of pickets for the use of such sidewalk on an equitable basis, but each group shall be permitted to picket subject to the provisions of this section at least once every two (2) hours.

(6) It shall be unlawful for any picket to address profane, indecent, abusive or threatening language to or at any person which would tend to provoke such person or others to a breach of the peace.

(a) *Interference with pickets.* It shall be unlawful for any person to physically interfere with such pickets in the use of the sidewalk or to address profane, indecent, abusive or threatening language to or at such pickets which would tend to provoke such pickets or others to a breach of the peace.

(b) *Authority of police.* The police officers of the town may, for the assemblage of persons in such numbers as to tend to intimidate pickets pursuing their lawful objective through numbers alone or through use of inflammatory words, direct the dispersal of persons so assembled and may arrest any person who fails to absent himself from the place of such assemblage when so directed by the police.

(c) *Maintenance of free passage.* Whenever the free passage of any street or sidewalk in the town shall be obstructed by a crowd, the persons composing such crowd shall disperse or move on when so directed by a police officer as provided in this section.

***State Law Reference—*** Picketing with intent to obstruct justice, G.S. § 14-225.1.

### *SECTION 5-20. – DISTURBING SCHOOL FUNCTIONS OR SCHOOL CHILDREN.*

It shall be unlawful for any person at or near any school house or property within the town to engage by conversation or sign or otherwise attract the attention of any of the pupils therein or thereon, to the disturbance of the pupils and to the detriment of the discipline of such school, or otherwise loiter or cause any disturbance whatsoever on or near school property. It shall further be unlawful for any person to cause any disturbance or to disrupt any school function, sport or other gathering within the town, whether the same be on or off school property.

### SECTION 5-21. – UNLAWFULLY ASSEMBLY.

It shall be unlawful for any two (2) or more persons within the town to assemble together for any unlawful purpose or, being assembled, to act in concert to do any unlawful act with force and violence against the property of the town or to the person or property of another or against the peace or to the terror of citizens or other persons or who shall make any movement or preparation therefore. No person shall knowingly suffer or permit any assemblage for the purpose of committing any unlawful act or breach of the peace or any riotous, offensive or disorderly conduct in or upon the premises owned by him or under his control within the town.

### SECTION 5-22. – PLAYING AND LOITERING AROUND RAILROAD YARDS OR SIDE TRACKS.

It shall be unlawful for any person to play or loiter around the yards or side tracks of the railroad.

### SECTION 5-23. – USE OF PARKING LOTS.

a) *Definition.* "Parking lot" means, for the purposes of this section, any area within the town of sufficient size to provide space on which more than five (5) automobiles may be parked and shall include public parking lots and those parking lots which are for the principal purpose of providing parking during business hours for shopping centers, stores, restaurants, drive-ins, theaters and other business or commercial establishments.

b) *Congregation prohibited.* It shall be unlawful for more than five (5) people to congregate on any one (1) parking lot in the town between the hours of 9:00 p.m. and 6:00 a.m., if the closest part of the parking lot is within three hundred (300) feet of a private residence, except for the purpose of patronizing a business establishment which is actually open for business between such hours and which is actually open at the time of such congregation.

c) *Enumeration of offenses.* It shall be unlawful for any person on a parking lot in the town, between the hours of 9:00 p.m. and 6:00 a.m., to do one (1) or more of the following:

(1) Talk in a loud or boisterous manner;

(2) Drink beer or any kind of alcoholic beverage;

(3) Throw any type of bottle, can, container, trash or paper on the parking lot;

(4) Use profanity or curse in such a manner that those standing in the immediate vicinity of the person may hear the profanity or cursing;

(5) Make such noise or disturbance that persons living in homes or other dwelling accommodations within three hundred (300) feet of the parking lot are disturbed in their place of living and deprived of their peace and quiet.

*State Law Reference*— Authority to regulate off-street parking lots, G.S. § 160A-302.

### SECTION 5-24. – 5-25. – RESERVED.

## ARTICLE 2. OFFENSES AGAINST PROPERTY

### *SECTION 5-26. – DAMAGE TO TOWN PROPERTY.*

It shall be unlawful to injure, damage, deface, trespass upon, break or injure any property belonging to the town.

(a) No person shall, without proper authority, carelessly or willfully tamper with, damage, deface, remove, molest, or otherwise interfere with the Police or Fire Department alarm or radio system or with any tools, equipment, apparatus, or other personal property belonging to or leased to the town or any agency thereof.

('70 Code, 2009 S-5 Supplement, § 14-27)

(b) (1) No person shall, without proper authority, carelessly or willfully, tamper with, damage, deface, remove, molest, or otherwise interfere with any real property belonging to or leased to the town or to any agency thereof.

(2) No person shall knowingly trespass upon any real property belonging to or leased to the town or any agency thereof.

('70 Code, 2009 S-5 Supplement, § 14-28)

(c) No person shall knowingly use, for any private purpose, any real or personal property belonging to or leased to the town or any agency thereof, unless authorized so to do by authority of the Board of Commissioners.

('70 Code, 2009 S-5 Supplement, § 14-29)

### *SECTION 5-27. – DAMAGE TO PRIVATE PROPERTY.*

It shall be unlawful to injure, damage or otherwise deface property belonging to another.

### *SECTION 5-28. – INJURING SHADE TREES AND SHRUBBERY.*

It shall be unlawful for any person, without proper authority, to knowingly injure or impair any shade tree or ornamental tree or shrubbery within the town.
('70 Code, 2009 S-5 Supplement, § 14-21) (Ord. passed 6-4-15)

### *SECTION 5-29. – CLIMBING A WATER TOWER.*

It shall be unlawful for any person to climb upon the town water tower without having proper authority to do so.
('70 Code, 2009 S-5 Supplement, § 14-32) (Ord. passed 7-2-12)

### *SECTION 5-30. – NONAUTHORIZED PERSONS JUMPING ON OR OFF MOVING TRAINS.*

It shall be unlawful for any person not an employee of the railroad company to jump on or off any moving train or locomotive within the town.
('70 Code, 2009 S-5 Supplement, § 14-19) (Ord. passed 1912; Am. Ord. 7, passed - -)

### *SECTION 5-31. – VANDALISM.*

The Mayor and the Town Manager are authorized to offer a reward in the amount set by the Board of Commissioners, for the apprehension and conviction of any person committing an act of vandalism within town limits.

(Res. passed 8-25-70)

### *SECTIONS 5-33. – 5.35 – RESERVED.*

## ARTICLE 3. – OFFENSES AGAINST MORALS

### *SECTION 5-36. – DEFINITIONS.*

In addition to the common meanings of words, the following definitions shall be applicable herein [this article]:

***Malt beverage*** means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage except unfortified or fortified wine as defined by this Chapter, containing at least one-half of one percent (0.5%), and not more than fifteen percent (15%), alcohol by volume. Any malt beverage containing more than six percent (6%) alcohol by volume shall bear a label clearly indicating the alcohol content of the malt beverage

***Open container*** means a container whose seal has been broken or a container other than the manufacturer's unopened original container.

***Public street*** means any highway, road, street, avenue, boulevard, alley, bridge, or other way within and/or under the control of the town and open to public use, including the sidewalks of any such street.

***Unfortified wine*** means any wine of sixteen percent (16%) or less alcohol by volume made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

**State Law Reference—** Malt beverage and unfortified wine defined, G.S. § 18B-101; open container defined, G.S. § 18B-300(c).

### *SECTION 5-37. – CONSUMPTION ON PUBLIC STREETS AND MUNICIPAL PROPERTY PROHIBITED.*

It shall be unlawful for any person to consume malt beverages and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied, or controlled by the town, including, but not limited to, public buildings and grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts, and other athletic fields. However, this section shall not be construed to permit or in any way authorize the possession or consumption of alcoholic beverages on premises for which a permit is required pursuant to state law.

(Res. 77-007, passed 9-7-76)
***Statutory reference:*** *Authority of local governments to regulate consumption on property owned or occupied by that local government, see G.S. § 18B-300(c)*

### *SECTION 5-38. – POSSESSION DURING SPECIAL EVENTS.*

It shall be unlawful for any person to possess malt beverages and/or unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events, unless the governing body adopts a resolution making other provisions for the possession of malt beverages and/or unfortified wine at the special event.

### SECTION 5-39. – CONSUMPTION ON PRIVATE PROPERTY.

(a) It shall be unlawful for any person to consume any malt beverage or wine (fortified or unfortified) on any private property which is frequently used by the public or wherein private property is used for parking areas for the public, and shall include any qualified public areas in front of or adjacent to any store, shop, restaurant, car wash, laundry, or other place of business.

(b) It shall be unlawful for any person to consume any malt beverage or wine (fortified or unfortified) in a vehicle which is in or upon any public place, public street or on the private business premises of another, possession of an open container is prima facie evidence of consumption.

(Ord. 94-02, passed 1-4-94)

### SECTION 5-40. –SAME; VIOLATION A MISDEMEANOR.

Violation of Section 13.102 or 13.103, above, shall be a misdemeanor punishable on conviction as provided in N.C. General Statutes 14-4, by a fine not exceeding fifty dollars ($50.00) or by imprisonment not to exceed thirty (30) days.

### SECTION 5-41. – 5-45. – RESERVED.

## CHAPTER 2. - NUISANCES

### SECTION 5-46. – NUISANCES DESCRIBED.

Anything that causes an offensive odor or that causes injury or damage to the health or life of any other person or anything that interferes with the peaceful enjoyment of one's property is hereby declared to be a nuisance. As used in this subchapter, the term ***SOLID WASTES*** shall be construed to include all useless, unwanted or discarded nongaseous and nonliquid materials resulting from domestic, industrial, commercial or community activities.

(Ord. 93-20, passed 5-4-93)

### SECTION 5-47. – NUISANCES PROHIBITED.

It shall be unlawful for any person to create a nuisance on his lot or a lot occupied by him or to allow a nuisance to remain on his lot or a lot occupied by him.

### SECTION 5-48. – STAGNANT WATER, HIGH GRASS, TRASH, DEBRIS AND NOXIOUS MATTER DECLARED NUISANCES; ABATEMENT.

The accumulation and existence of stagnant water, high grass, trash, debris or other noxious matter upon any lot or part thereof within the corporate limits of the town and any grass or grass clippings, trash, debris or any other noxious matter upon the public streets is hereby declared to be a nuisance, and any person causing, permitting or allowing any such nuisance to exist within the town shall be guilty of a misdemeanor.

The existence of an accumulation of solid wastes on any lot or parcel of land within the corporate limits, uncovered or unenclosed, or under circumstances otherwise resulting in, or threatening to cause, any of the following conditions is hereby declared to be dangerous and prejudicial to the public health or safety, and to constitute a nuisance:

(a) A fire hazard;

(b) The accumulation of stagnant water;

(c) The inhabitation therein of rats or other vermin of any kind;

(d) A substantial risk of injury to minors or other persons, such as, but not limited to, open storage or accumulation of any abandoned refrigerator or other appliance, glass, building materials or similar items;

(e) The emission or effluence of noxious or offensive particulate matter, dust, sludge, or other materials or substances which tend to pollute or contaminate land, water or air, rendering or tending to render it injurious to human health, habitation or welfare, to animal or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property; provided that this division shall be construed consistent with and supplementary to, and not in conflict with, applicable state and federal laws and regulations;

(f) The use of carports, open porches, stoops, decks, verandas, terraces, patios or other outdoor areas that are visible from streets, sidewalks, public rights-of-way or abutting properties, shall not be allowed for the collection or storage of old, worn out, broken or discarded machinery, automobile parts, junk, furniture (not including typical outdoor or yard furniture intended for outdoor use by the manufacturer), stoves, refrigerators and appliances, cans or containers, household goods or plumbing and electrical fixtures or other similar materials that increase the likelihood of fire or any other hazard; and

(g) Any condition detrimental to the public health which violates state or federal law, or the rules and regulations of the County Health Department.

(Ord. 93-20, passed 5-4-93; Am. Ord. 06-15, passed 7-6-06)

### *SECTION 5-49. – INVESTIGATION.*

(a) The Building Inspector or other public official as may be designated by the Board of Commissioners (hereinafter referred to as the Enforcement Official), upon notice from any person of the possible existence of any of the conditions described in **§ 5-48**, shall cause to be made such investigation as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared in **§ 5-48**.

(b) This investigation may be conducted by either the Enforcement Official or the appropriate County Health Department Official.

(Ord. 93-20, passed 5-4-93)

### *SECTION 5-50. – NOTICE OF HEARING.*

(a) If it appears that such conditions exist, the Enforcement Official shall cause to be delivered or mailed to the owner and any lessee or occupier of the property upon which the conditions exist, a notice stating the reasons why the conditions may constitute a violation, and that an informal hearing will be held before the Enforcement Official, at a time and place therein specified, not less than ten nor more than 30 days after the delivery or mailing of the notice.

(b) The owner or any party in interest shall have the right to file any answer to the notice, and to appear in person or otherwise, and give evidence at the time and place fixed in the notice.

(c) Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard.

(d) The rules of evidence prevailing in courts or law or equity shall not be controlling in such hearings.

(Ord. 93-20, passed 5-4-93)

### SECTION 5-51. – NOTICE OF PUBLIC NUISANCE AND ORDER FOR ITS ABATEMENT.

If a determination is made that such conditions constituting a public nuisance exist, the Enforcement Official shall notify, in writing, the owner and lessee or occupier of the premises in question of the conditions constituting such public nuisance, and shall order the prompt abatement thereof within 15 days from the receipt of such written notice.

(Ord. 93-20, passed 5-4-93)

### SECTION 5-52. – ABATEMENT BY TOWN.

(a) If the owner, or lessee or occupier, having been ordered to abate such a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the order, the Enforcement Official may cause such condition to be removed or otherwise remedied by having employees of the town to go upon the premises and remove or otherwise abate such nuisance, under the supervision of an appropriate officer or employee.

(b) Any person who has been ordered to abate a public nuisance may within the time allowed by this subchapter request the town, in writing, to remove such condition, the cost of which shall be paid by the person making such request.

(Ord. 93-20, passed 5-4-93)

### SECTION 5-53. – TOWN TO BILL FOR COSTS OF ABATEMENT.

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

(b) In any case in which such costs are imposed under the provisions of this subchapter, the Enforcement Official shall properly certify to the Tax Collector, in writing, the nature of the work, the date performed, the name of the property owner, the address of the property, and the total costs to the town (including actual cost in labor and materials, investigation of ownership and violation, inspection, and the like).

(Ord. 93-20, passed 5-4-93)

### SECTION 5-54. – UNPAID COSTS BECOME A LIEN.

In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in this subchapter, such charges shall become a lien upon the land or premises where the public nuisance existed, and shall be collected as unpaid taxes, together with any legal expenses, including attorney's fees, as provided in G.S. § 160A-193.

(Ord. 93-20, passed 5-4-93)

### SECTION 5-55. – REMEMDIES NOT EXCLUSIVE.

The procedure set forth in this subchapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this subchapter shall not prevent the institution of criminal charges against any person, firm or corporation violating the provisions of this subchapter, as provided in G.S. § 14-4.

(Ord. 93-20, passed 5-4-93)

### SECTION 5-56. – REMEDY THROUGH A COURT OF COMPETENT JURISDICTION.

In addition to other available remedies, this subchapter may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction, and applied for by the town as provided in G.S. § 160A-175(d).

(Ord. 93-20, passed 5-4-93)

### SECTION 5-57. – 5-60. – RESERVED.

## CHAPTER 3. – MISCELLANEOUS PROVISIONS: ABANDONED AND JUNKED MOTOR VEHICLES.

### SECTION 5.61. – STATEMENT OF POLICY.

The Board of Commissioners has found it necessary and desirable to promote or enhance:

a) The quality of urban attractiveness and the aesthetic appearance of the town;
b) The protection of property values throughout the town;
c) The preservation of the livability and attractiveness of neighborhoods;
d) The promotion of tourism, conventions, and other opportunities for economic development for the town;
e) The attractiveness of the town's thoroughfares and commercial roads which present the primary, public visibility to visitors and to passers-by of the town; and
f) The promotion of the comfort, happiness, and emotional stability of occupants of property in the vicinity of junked motor vehicles.

### SECTION 5.62. – DEFINITIONS.

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

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

(1) Has been left upon a street or highway in violation of a law or ordinance prohibiting parking; or
(2) Is left on property owned or operated by the town for longer than twenty-four (24) hours; or
(3) Is left on private property without the consent of the owner, occupant or lessee thereof for longer than two (2) hours; or

(4) Is left on any public street or highway longer than seven days or is determined by law enforcement to be a hazard to the motoring public.

***Authorizing official*** means the supervisory employee of the police department or the town building inspector or other public official, respectively, designated to authorize the removal of vehicles under the provisions of this article.

***Junked motor vehicle,*** as authorized and defined in G.S. section 160A-303.b2, means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

(1) Is partially dismantled or wrecked; or
(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
(3) Is more than five (5) years old and worth less than one hundred dollars ($100.00).

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

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

(1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
(2) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height;
(3) A point of collection of pools or ponds of water;
(4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
(5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.;
(6) So situated or located that there is a danger of it falling or turning over;
(7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
(8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
(9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Board of Commissioners.

***State Law Reference—*** Removal and disposal of abandoned and juked vehicles, G.S. § 160A-303.

### *SECTION 5.63. – ADMINISTRATION; EXCEPTIONS.*

(a) The Police department, Town administrator and Code Enforcement Officer Shall be responsible for the administration and enforcement of this section. The Police department shall be responsible for

administering the removal and Disposition of vehicles determined to be abandoned on the public streets and Highways within the Town, and on property owned by the Town. The Town Administrator shall be responsible for administering the removal and Disposition of abandoned, nuisance or junked motor vehicles, located on Private property.

(b) The Town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this title and applicable state laws.

(c) Nothing in this title shall be construed to limit the legal authority or powers of officers of the Town Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties. (Ord. of 2-8-90, § 1)

(d) Exceptions: Nothing in this section shall apply to any vehicle which is:

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

(2) In an enclosed building;

(3) On the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or

(4) In an appropriate storage place or depository maintained in a lawful place and manner by the Town. (Ord. of 2-8-90, § 14)

### *SECTION 5-64. – ABANDONED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.*

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

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

(Ord. of 2-8-90, § 4)

### *SECTION 5-65. – NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.*

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

(b) Upon investigation, the building inspector may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle and order the vehicle removed.

(Ord. of 2-8-90, § 4)

### *SECTION 5-66. – JUNKED MOTOR VEHICLE REGULATED; REMOVAL AUTHORIZED.*

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

(b) It shall be unlawful to have a junked motor vehicle on the premises of public or private property.

(c) Upon investigation, the building inspector may order the removal of a junked motor vehicle after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such findings shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:

(1) Protection of property values;
(2) Promotion of tourism and other economic development opportunities;
(3) Indirect protection of public health and safety;
(4) Preservation of the character and integrity of the community; and
(5) Promotion of the comfort, happiness and emotional stability of area residents.

(Ord. of 2-8-90, § 4)

### *SECTION 5-67. – REMOVAL; PRE-TOWING NOTICE REQUIREMENT.*

(a) Except as set forth in **Section 5-68** below, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the name and mailing address of the registered owner or person entitled to the possession of the vehicle or the owner, lessee or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first-class mail. The person who mails the notice shall retain a written record to show the name and address to which mailed and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the town on a specified date, no sooner than seven (7) days after the notice is affixed. The notice shall state that the vehicle will be removed by the town on a specified date, no sooner than seven (7) days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

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

(Ord. of2-8-90, § 4)

### SECTION 5-68. – EXCEPTION TO PRIOR NOTICE REQUIREMENT.

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

a) *Vehicles abandoned on the streets.* For vehicles left on public streets and highways, the Board of Commissioners hereby determines that immediate removal of such vehicles may be warranted when they are:

1. Obstructing traffic;
2. Parked in violation of an ordinance prohibiting or restricting parking;
3. Parked in a no-stopping or -standing zone;
4. Parked in a loading zone;
5. Parked in a bus zone; or
6. Parked in violation of a temporary parking restriction imposed under this code.

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

(Ord. of2-8-90, § 4)

### SECTION 5-69. – REMOVAL; POST-TOWING NOTICE REQUIREMENT.

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

(1) The description of the removed vehicle;
(2) The location where the vehicle is stored;
(3) The violation with which the owner is charged, if any;
(4) The procedure the owner must follow to redeem the vehicle; and
(5) The procedure the owner must follow to request a probable cause hearing on the removal.

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

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

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

***State Law Reference—*** *Notice and Probable Cause Hearing*, G.S. § 20-219.11(a) and (b).

### *SECTION 5-70. – RIGHT TO A HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.*

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing requests. The magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of N.C. Gen. Stat. Section 20-222.

*(Ord. of2-8-90, § 12)*

***State Law Reference—*** *Notice and Probable Cause Hearing*, G.S. § 20-219.11(a) and (b).

### *SECTION 5-71. – REDEMPTION OF VEHICLE DURING PROCEEDINGS.*

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying a towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this article. (Ord. of 2-8-90, § 10)

### *SECTION 5-72. – SALE AND DISPOSITION OF UNCLAIMED VEHICLE.*

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the town or tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with N.C. Gen. Stat. Chapter 44A, Article 1.

(Ord. of 2-8-90, § 11)

### SECTION 5-73. – CONDITIONS OF REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the town building inspector. The town may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage or sale thereof.

### SECTION 5-74. – PROTECTION AGAINST LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle for disposing of such vehicle as provided in this article.

(Ord. of2-8-90, § 13)

### SECTION 5-75. – UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this Code unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

(Ord. of2-8-90, § 15)

### SECTION 5-76. – TOWING ROTATION LIST.

(a) The Police department shall prepare and maintain an eligible list of those persons having businesses in the Town or within the extratenitorial jurisdictional limit, who apply and qualify to tow and store vehicles at the request of the authorizing official pursuant to this chapter. The Chief of Police shall prepare rules in accordance with the provisions of this chapter for the qualification of private tow truck operators or businesses for the eligible list.

(b) Any private tow truck operator or business on the eligible list that violates any provision of this division or the rules established in accordance with this chapter shall be subject to removal from the eligible list after written notice. Any private tow truck operator or business removed from the eligible list may, within five (5) working days of the date of the notice of removal, request a hearing before the Chief of Police to show cause why he/she should not be removed from the list.

(Ord. of 2-8-90 §16)

### SECTION 5-77. – SAME; QUALIFICATIONS.

To qualify for the eligible list a private tow truck operator or business must:

(a) Keep his towing operation either open or available, by telephone number, twenty-four (24) hours per day seven (7) days a week.

(b) Have available at all times a wrecker of at least 10,000 pounds gross vehicle weight and having the necessary equipment to tow vehicles from the streets and other public or private places in the Town when called upon to do so.

(c) Have at, or in the immediate vicinity of, the location of his towing operation, sufficient fenced storage space and facilities to protect both damaged and undamaged vehicles, and have a facility to store a vehicle out of exposure to the elements overnight.

The private tow truck operator or business must also agree to assume the obligation to:

(1) Promptly tow and store all vehicles to be removed from the public streets or other public places or private property upon the request of the authorizing official.

(2) Issue a receipt to the authorizing official for each vehicle towed and stored, and keep the vehicle until its release is authorized by the authorizing official.

(3) Store damaged automobiles in a secured fenced storage space.

(4) Collect towing and storage fees from the owner of the vehicle by the sale of the vehicle without recourse to the Town, unless it is found that no probable cause existed for the towing pursuant to G.S. 20- 219.11

(5) Pay all damages to vehicles entrusted to his custody as the result of his negligence and to maintain, for the protection of the vehicle owners, garage keepers' legal liability insurance while perfonning any of the services provided for in this division.

(6) Indemnify and save the Town hannless from all liability for damages sustained by vehicles being towed or stored and all personal injuries occurring as a result of the towing or storage.

(7) Remove from the scene of a vehicle accident, in which the vehicle to be towed was involved, all glass, metal or debris caused by the accident.

(Ord. of 2-5-90, § 17)

### *SECTION 5-78. – SAME; CONTRACTS.*

A private tow truck operator or business on the eligible list shall contract with the Town to remove the vehicles described in this chapter from the public streets or other public places or private property upon the request of the authorizing official. The contract shall be in writing, shall specify the charges to be made for towing, and shall require the person entering into the contract for the towing of such vehicles to perform the service in a manner consistent with the provisions of this chapter and the rules prepared there under and shall provide for the forfeiture of the contract in the event of a violation of any of the provisions of the contract or of the provisions of this division. The contract shall further provide that the Town shall not be obligated to the person undertaking the towing and storage of such vehicles for any damages which may be incurred in the performance of the obligation assumed by him but that the charge shall be collected solely from the owner of the vehicle involved, unless it is found that no probable cause existed for the towing of any vehicle pursuant to G.S. 20-219.11

(Ord. of 2-8-90, § 18)

### *SECTION 5-79. – SAME; FEES.*

The fees and charges for the removal and storage of abandoned or junked motor vehicles shall be determined from time to time by the Board and listed in the *Schedule of Fees and Charges* maintained in the Clerk's office.

(Ord. of 2-8-90, § 19)

### SECTION 5-80. – STORAGE OF UNLICENSED MOTOR VEHICLES.

(a) No person may cause, suffer or permit, on premises under the control of such person, the storage, outside a fully enclosed structure, of a motor vehicle that does not display current license plates and a current inspection sticker unless a permit has been issued for such vehicle under this section, provided that:

(1) The restrictions of this section shall not apply to any person until forty-five (45) days after the Manager initially notifies the responsible person that a permit is required under this section; and

(2) This section shall not apply to persons lawfully engaged in a business necessitating such storage so long as such business has received all legally required state and local permits and licenses.

(b) An application or an initial permit under this section shall be made to the Manager on a form prescribed by the town within thirty (30) days after the Manager notifies the responsible person that a permit is required under this section. Permits shall be valid for a period of six (6) months from the date of issuance. The Manager shall send to the permittee an application for a renewal permit at least thirty (30) days prior to the expiration of the permit, and an application for a renewal permit must be submitted to the Manager at least fifteen (15) days prior to expiration of the permit.

(c) Any person who submits a completed permit application pursuant to subsection (b) shall be issued a permit under this section if:

(1) The applicant pays a semi-annual permit fee of fifty dollars ($50.00);

(2) The applicant demonstrates to the reasonable satisfaction of the Manager either that (i) the vehicle is operable or (ii) the vehicle is capable of being made operable and the applicant is in the process of repairing the vehicle such that it will be made operable within a period of not more than six (6) months. When a vehicle has remained inoperable for a continuous period of six (6) months or more after the issuance pursuant to this subsection of a permit that was premised upon a finding of compliance with subdivision (ii) of this subsection, the Manager shall regard this in subsequent applications as conclusive evidence of the applicant's inability to satisfy subdivision (ii); and

(3) The applicant demonstrates that he or she owns or leases the property on which the vehicle is stored or has the written permission of the owner or lessee of such property to store the vehicle at that location.

(d) If the Manager denies an application for an initial or renewal permit on the basis that the applicant has failed to demonstrate that the vehicle is operable or can be made operable within a period of six

(6) months, the applicant may appeal this determination to the board of adjustment in accordance with the same procedures applicable to appeals under the this ordinance. The board may find that a vehicle is capable of being made operable within a period of six (6) months or more after the issuance of a previous permit under this section.

(e) For purposes of this section, the "Manager", shall be the town manager or any person designated by the manager to perform the functions and exercise the responsibilities assigned by this section to the Manager.

(f) The provisions of this section shall not apply to a vehicle determined by the Manager to be a junked motor vehicle or a nuisance motor vehicle.

(g) A violation of the provisions of this section shall subject the violator to a civil penalty as provided in this Code.

### *SECTION 5-81. – 5-85. – RESERVED.*

## CHAPTER 4. – MISCELLANEOUS PROVISIONS: VEGETATION AND REFUSE

### *SECTION 5- 86. – RESTRICTIONS GENERALLY.*

(a) The uncontrolled growth of noxious weeds and tall grass, and the accumulation of offensive animal or vegetable matter or other refuse dangerous or prejudicial to the public health or which creates a fire hazard dangerous to the public safety, upon any premises within 125 feet of any building, dwelling, or other structure is declared to constitute a public nuisance.

('70 Code, 2009 S-5 Supplement, § 11-14) (Ord. passed 10-3-61)

(b) It shall be unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any lot or land or any part thereof in the town to permit or maintain on any such lot or land or on or along the sidewalk, street or alley adjacent to the lot or land between the property line and the curb or middle of the alley or for ten (10) feet outside the property line, if there is no curb, any growth of weeds, grass or other rank vegetation to a greater height than twelve 12) inches, on the average, or any accumulation of dead weeds, grass or brush.

(c) It shall be unlawful for any such person to cause, suffer or allow poison ivy, ragweed or other poisonous plants or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed or other poisonous or harmful weed shall extend upon, cover, overhang or border any public place or to allow seed, pollen or other poisonous particles or emanations there from to be carried through the air into any public place.

***State Law Reference—*** Abatement of public health nuisances, G.S. § 160A-193; permitting uncontrolled existence of plant pests, G.S. § 106-421.

### SECTION 5-87. – DUTY OF OWNER OR OCCUPANT OF PROPERTY.

It shall be the duty of any owner, lessee or occupant of any lot or land to cut and remove or cause to be cut and removed all weeds, grass or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of this article.

Owners and occupants of premises, including owners of vacant lots, shall keep such premises in a sanitary and sightly condition at all times.
('70 Code, 2009 S-5 Supplement, § 14-13(a)) (Ord. passed 1912; Am. Ord. 5, passed - -)
***Cross-reference:*** *Unsafe Buildings, see Title 3, Chapter 5; Abandoned Buildings, see Title 3, Chapter 6; Nonresidential Buildings, Title 3, Chapter 10.*

### SECTION 5-88. – NOTICE UPON FAILURE OF OWNER TO ABATE.

If the provisions of this article are not complied with, the Town Manager shall serve written notice upon the owner, lessee or occupant or any person having care and control of any such lot or land to comply therewith. Written notice shall be given to the owner with an order to abate the nuisance.

### SECTION 5-89. – ABATEMENT BY TOWN.

Any person having been ordered, pursuant to this subchapter, to abate a nuisance shall comply with such order without undue delay, and in any case within ten days from receipt of such order. Any such nuisance which is not so abated within the ten-day period shall be abated by the town at the expense of the owner of the premises involved. Such expense shall constitute a lien upon the premises and shall be collected as unpaid taxes as provided in G.S. § 160A-193. However, the person ordered to abate the nuisance may, within ten days after receipt of the order, request the town to abate the nuisance, and the town shall comply with such request; the expense thereof shall constitute a lien upon the premises and shall be collected as above provided.
('70 Code, 2009 S-5 Supplement, § 11-17) (Ord. passed 10-3-61)

### SECTION 5.90. – RECOVERY OF TOWN'S COST OF ABATEMENT.

The actual cost of the cutting and removing of weeds, grass or other vegetation by the town, plus five (5) percent for inspection and other additional costs in connection therewith, shall be certified by the town tax collector and shall thereupon become and be a lien upon the property upon which such weeds, grass and other vegetation were located and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes as provided for in G.S. § 160-234. Interest shall accrue at one-half of one (1) percent per month or fraction thereof from the date of completion of the work if the bill is not paid within thirty (30) days after completion. A lien shall attach as of the date of completion of the work and shall be settled or paid before any unpaid taxes or taxes of subsequent levies.

### SECTION 5.91. – 5-95. – RESERVED.

## CHAPTER 5. – MISCELLANEOUS PROVISION: GRAFFITI

### SECTION 5-96. – PURPOSE AND INTENT.

The purpose and intent of this article are to provide for the expeditious removal of graffiti on private property within the town. The Board of Commissioners declares such graffiti to be a nuisance by undermining (1) the quality of urban attractiveness and the aesthetic appearance of the town, (2) the protection of property values, (3) the preservation of the livability and attractiveness of neighborhoods, and (4) the promotion of opportunities for economic development of the town. In addition, the Board of Commissioners finds that such graffiti is frequently a means of communication by street gangs engaging in unlawful activity and is thereby injurious to the public welfare and safety.

### SECTION 5-97. – DEFINITIONS.

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

***Graffiti*** means any inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted or engraved on or otherwise affixed to any surface of private property, natural or manmade and that is exposed to public view, without the prior written consent of the property owner delivered to the person placing the graffiti on the property.

***Private property*** means any privately owned real property, including any fixtures or improvements to such property, located within the town's limits.

***Property owner*** means the owner of the private property, such owner's manager or agent, or any other person in lawful control or possession of the property.

***Removal of graffiti*** means the use of any method that has the effect of obscuring, erasing or otherwise removing the graffiti from public view.

### SECTION 5-98. – FAILURE TO REMOVE GRAFFITI UNLAWFUL.

It is unlawful for any property owner to fail to remove, or fail to cause the removal of, graffiti in accordance with Section 13.89 of this article.

### SECTION 5-99. – PROCEDURES FOR REMOVAL OF GRAFFITI.

(a) Within thirty (30) days after the property owner discovers the existence of graffiti on his private property or within thirty (30) days after the property owner receives written notice from the town by registered or certified mail, return receipt requested, of the existence of graffiti on the owner's property, whichever event occurs earlier, the property owner shall remove or cause the graffiti to be removed from his property in accordance with paragraph (b) of this section.

(b) The property owner shall either (1) remove the graffiti at the owner's expense, or (2) authorize the town to remove the graffiti at its own expense by signing an authorization of removal on a form prescribed by the town manager, along with a release that holds the town harmless from any liability to the owner on account of the town's removal of the graffiti in accordance with the removal method specified in the authorization of removal.

(c) In the event the property owner authorizes the town to remove the graffiti at its own expense in accordance with subparagraph (b) (2) of this section, the town shall not be required to rectify any area defaced by the graffiti more extensively than where the graffiti itself is located and shall not be required to restore the area where the graffiti is removed to the area's original condition (i.e., exact color, textures, etc.).

### *SECTION 5-100. – PENALTIES AND REMEDIES.*

(a) A violation of any provision of this article shall subject the offender to a civil penalty of one hundred dollars ($100.00). If the offender fails to pay this penalty within ten (10) days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of a debt.

(b) The town may seek to enforce this article through any appropriate equitable action.

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

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

### *SECTION 5-101. – 5-105. – RESERVED.*

## CHAPTER 6. – MISCELLANEOUS PROVISIONS: SPECIAL EVENTS; PERMITS

### *SECTION 5-106. – GENERAL.*

The following shall guide the Town in regulating special events including, but not limited to, parades, carnivals, processions and assemblies of more than five (5) persons:

### *SECTION 5-107. – SPECIAL EVENTS PERMIT REQUIRED.*

It shall be unlawful for any person, corporation, firm or organization to have or sponsor any of the activities referred to in the preceding within the town unless a special events permit therefor has been granted by the town.

### *SECTION 5-108. – PROCESS TO GRANT OR DENY A SPECIAL EVENTS PERMIT.*

Applicants for a special events permit required by this chapter shall file with the town Clerk a sworn application in writing addressed to the town, on a form to be furnished by the town, which form shall require, but not be limited to, the following information:

a) The name and address of the applicant specifying the entity which will conduct the proposed activities and the entity sponsoring such activity;

b) The address of the location to be used and the dates and time that the activities will be permitted at such address;

c) The charge that is to be made for the privilege of admission at such time and place;

d) A statement as to whether the applicant, contractor or subcontractors have been convicted of any crime or charged with the violation of any crime involving moral turpitude or the violation of any provisions of this Code, state law or ordinance involving the sale and/or consumption of drugs and/or alcoholic beverages and, if so, a detailed statement of the nature and disposition of the charges;

e) A statement that the applicant will furnish the town manager with such additional information regarding the applicant and application as may be requested by the town.

### *SECTION 5-109. – TIME OF FILING APPLICATION.*

The application for a special events permit required by the provisions of this chapter shall be filed with the town at least two (2) weeks prior to the date on which the proposed event is to be had, held or conducted. Notwithstanding the foregoing, the town may accept an application less than two (2) weeks prior to the date on which the proposed event is to take place if the manager concludes that sufficient time exists before the start of the event to comply with the other requirements of this Article.

### *SECTION 5-110. – INVESTIGATION – REQUIRED.*

The town shall make, or cause to be made, an investigation of the applicant and application for a special events permit required by this chapter which shall include, but shall not be limited to, the character and morals of the applicant and the entertainers proposed to perform at the event. The town shall also require that the premises on which the event is proposed to be held or conducted be inspected by the following:

a) The fire chief for compliance with all local and state fire laws;
b) The building inspector for compliance with state building code regulations;
c) The appropriate county health officials regarding the availability and condition of restroom facilities on the premises.

### *SECTION 5-111. – SAME; FEE*

At the time the application for a special events permit as required by this chapter is filed, the applicant therefor shall pay a fee to the town in an amount to be determined by the Board from time to time and listed on the schedule of fees and charges maintained in the Clerk's office, which fee shall defray the cost of investigating the application and/or issuing the permit. The fee shall be retained by the town regardless of whether or not a permit is issued.

### SECTION 5-112. – INSURANCE REQUIRED

Before a special event permit is issued under the provisions of this chapter, the entity that will actually conduct the activity for which the permit is sought shall give evidence of liability insurance of not less than one million dollars ($1,000,000.00) and further evidence that this liability insurance shall also afford coverage to the sponsoring entity.

### SECTION 5-113. – REVIEW OF APPLICATION BY BOARD OF COMMISSIONERS.

Unless the Board of Commissioners finds as a fact that the granting of the permit will be contrary to the health, safety, welfare or morals of the residents of the town, the permit shall be granted; otherwise, it shall be denied. However, if the application for a permit is denied, the Board of Commissioners shall cause to be recorded in the minutes of the meeting where the application is presented, the facts found by it supporting its decision that the granting of the permit would be contrary to the health, safety, welfare or morals of the residents of the town.

### SECTION 5-114. – CONDITIONS FOR GRANTING.

The granting of a special events permit applied for under the provisions of this chapter by the Board of Commissioners may be conditioned upon the following:

a) That the applicant make a payment for the permit, in an amount to be determined by the Board from time to time and listed on the schedule of fees and charges maintained in the Clerk's office, which shall be issued by the Clerk;
b) That the applicant furnish adequate police protection, as recommended by the chief of police, and the payment of such fees as may be necessary to hire such personnel, approved by the chief of police, as the chief of police deems necessary to supervise and maintain law and order and public safety at the event;
c) Such other reasonable conditions as may be imposed by the town for the protection of the health, safety, welfare or morals of the residents of the town.

### SECTION 5-115. – REVOCATION.

Any person operating an event in violation of any applicable provision of this Code, state law or town ordinance, rule or regulation shall be subject to having the permit for such event revoked by the Board of Commissioners. Such permit may be revoked by the chief of police, police major or police duty officer after the owner or operator has been notified by such officer that the event is not being properly operated.

### SECTION 5-116. – FAILURE TO PAY ADMISSION.

It shall be unlawful to see or attempt to see, in any manner whatsoever, any show, ball game or other public entertainment for which an admission is charged without paying the fee or price for such admission.

### SECTION 5-117. –HOURS RESTRICTED FOR PARADES.

No parade shall be permitted between the hours of 11:30 a.m. and 2:00 p.m., except on Saturdays and Sundays, or between the hours of 5:00 p.m. and 6:00 p.m., local time, and provided that notwithstanding any of the foregoing provisions, no parade or procession shall commence or continue after sunset or commence before sunrise.

### SECTION 5-117. –INTERFERENCE.

It shall be unlawful for any person to physically interfere with processions, marches or meetings or with the persons lawfully engaged therein in the use of any street, sidewalk or other public place or to address profane, indecent, abusive or threatening language or other fighting words to or at such participants which would tend to provoke such participants or others to a breach of the peace.

### *SECTION 5-118. –CONDUCT OF PARTICIPANTS.*

It shall be unlawful for any person conducting or participating in any parade or meeting to address profane, indecent, abusive or threatening language or other fighting words to or at any person which would tend to provoke such person or others to a breach of the peace.

### *SECTION 5-119. – 5-125. –RESERVED.*

## CHAPTER 7. – MISCELLANEOUS PROVISIONS: POSTING OF PROHIBITIONS FOR CARRYING CONCEALED WEAPONS

### *SECTION 5-126. – POSTING OF SIGNS PROHIBITING THE CARRYING OF CONCEALED WEAPONS.*

a) The law enforcement of the town is hereby authorized and instructed to post or cause to be posted conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to such buildings, indicating that carrying a concealed handgun is prohibited therein in accordance with *G.S. § 14-415.23.*

b) *Location of signs.* Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The law enforcement of the town shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.

c) The size of the notice shall be a minimum of 120 square inches and the words "CONCEALED HANDGUNS PROHIBITED" shall be printed in bold print at a typeset of at least three-quarters inch and, in smaller print, such notice shall contain the words "BY ORDER OF THE TOWN OF RED SPRINGS."

***State Law Reference—*** Authority to post signs prohibiting on local government property and parks, G.S. 14-415.11(c).

***State Law Reference—*** Authority to adopt ordinances to permit posting of a prohibition against carrying concealed handguns on local government buildings and premises and parks, G.S. § 14-415.23; carrying concealed handguns on posted premises constitutes violation, G.S. 14-415.119(c).

### *SECTION 5-127. – 5-140. –RESERVED.*

# TITLE 6. - HEALTH AND SANITATION

## CHAPTER 1. – GENERAL

### SECTION 6-1. – MAINTENANCE OF PREMISES REQUIRED.

Owners and occupants of premises, including owners of vacant lots, shall keep such premises in a sanitary and sightly condition at all times.

('70 Code, 2009 S-5 Supplement, § 14-13(a)) (Ord. passed 1912; Am. Ord. 5, passed - -)
***Cross-reference:*** *Unsafe buildings, see Title 3, Chapter 5*; *abandoned buildings, see Title 3, Chapter 6. Minimum housing code, see Title 7.*

### SECTION 6-2. – ACCUMULATION OF SUBSTANCES DETRIMENTAL TO PUBLIC HEALTH.

(a) No owner or occupant of any house or lot shall suffer to remain on the lot owned or occupied by him any decaying flesh, manure, vegetable matter or anything which may decay and attract flies, mosquitoes or other insects endangering the health of the community without burying, covering or treating the same to prevent danger of disease.

(b) No person shall knowingly and willfully permit stagnant water to be and remain in any pool, pond, or open vessel near a well, pump, or elsewhere on his premises, or upon any lot of which he may have possession or control, for more than 48 hours at any one time.
('70 Code, 2009 S-5 Supplement, § 14-13(b)) (Ord. passed 1912; Am. Ord. 5, passed - -)

(c) It shall be unlawful for any person to willfully pollute or contaminate any well or other source of drinking water.

('70 Code, 2009 S-5 Supplement, § 14-17) (Ord. passed 1912; Am. Ord. 5, passed - -)

### SECTION 6-3. – LIABILITY FOR NUISANCES OR VIOLATIONS

The owner, lessee, tenant or occupant of any building or premises where there shall be a nuisance or any violation of any provision of this Code, state law or ordinance of the Town relating to health and sanitation shall be jointly and severally liable therefore and may be required to abate the same or comply with the order of the county health officer or his assistants within the specified time within the order.

### SECTION 6-4. – SURFACE PRIVIES AND CESSPOOLS.

It shall be unlawful for any person, whether owner, head of family, tenant, lessee or other person in possession of any premises within the town, to maintain or permit to be maintained thereon any surface privy or cesspool.

### SECTION 6-5. – SEPTIC TANKS.

It shall be unlawful to install and operate a septic tank system at any location where public sewer service is available. Septic tanks and drain fields may be installed and operated within the town limits only at locations where public sewer service is not available. Public sewer service shall be considered to be available wherever a town-operated sanitary sewer collection line is located within four-hundred (400) feet of a dwelling or structure and a sewer lateral line built in conformance with the state building code can be constructed to allow connection to the sanitary sewer collection line

without requiring the owner of the dwelling or structure to cross the privately owned property of others. Where used, septic tanks and drainage fields must be approved by the county health department. When a septic tank and drain field have been installed in a location at which public sewer service subsequently becomes available, connection to the sanitary sewer system shall be required within sixty (60) days of any malfunction or failure of either the septic tank or the drain field. It is not required that residences served by properly functioning septic tanks and drain fields installed prior to the availability of public sewer service connect to the sanitary sewer system.

### SECTION 6-6. – 6-10. – RESERVED.

## CHAPTER 2. – MOSQUITO CONTROL

### SECTION 6-11. – PURPOSE AND DEFINITIONS.

The purpose of mosquito control is to protect the public health. For the purpose of this article, any "collection of water" means water contained in ditches, pools, ponds (natural or artificial), excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs (except horse troughs in frequent use), urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks of flush closets or other similar containers.

***State Law Reference—*** *Mosquito and vector control, G.S. § 130A-346 et seq.*

### SECTION 6-12. – RIGHT OF ENTRY.

For the purpose of enforcing the provisions of this article and subject to constitutional limitations, the health officer may at all reasonable times enter in and upon any premises within his jurisdiction.

### SECTION 6-13. – PRESUMPTION OF VIOLATION.

The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are there, and failure to prevent such breeding within three (3) days after notice by the health officer shall be deemed a violation of this article.

### SECTION 6-14. – ENFORCEMENT BY TOWN; COSTS.

Should the person responsible for the condition giving rise to the breeding of mosquitoes fail or refuse to take necessary measures to prevent the condition, within three (3) days after due notice has been given to him, the town is hereby authorized to do so, and all necessary costs incurred by the Town for this purpose shall be a charge against the property owner or other person offending, as the case may be.

### SECTION 6-15. – BREEDING PLACES PROHIBITED.

It shall be unlawful to have, keep, maintain, cause or permit within the Town any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as to effectually prevent such breeding.

### SECTION 6-16. – METHODS OF TREATMENT.

The method of treatment of any collection of water, directed toward the prevention of breeding of mosquitoes, shall be approved by the health officer, and may be one (1) or more of the following:

a) Screening with wire netting of at least sixteen (16) meshes to the inch, each way, or with any other material which will effectually prevent the ingress or egress of mosquitoes;
b) Complete emptying every seven (7) days of unscreened containers, together with their thorough drying or cleaning;
c) Using an approved larvicide applied under the direction of the health officer;
d) Covering completely the surface of the water with kerosene, petroleum or paraffin oil once every seven (7) days;
e) Cleaning and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito-destroying fish;
f) Proper disposal by the removal or destruction of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water;
g) Effective drainage of all impounded water in ditches, pools, ponds, excavations, holes, depressions and marshes.

### SECTIONS 6-17. – 6-20. – RESERVED.

## CHAPTER 3. - RODENT CONTROL

### SECTION 6-21. – PURPOSE AND DEFINITIONS.

The purpose of this section is to provide for protection of the public health. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

***Business building*** means any structure, whether public or private, regardless of the type of material used in its construction, that is located within the boundaries of the town and adapted to occupancy for transaction of business, whether vacant or occupied, for the rendering of professional services, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotels, rooming houses, apartment houses, beer parlors, office buildings, public buildings, theaters, stores, markets, restaurants, warehouses, grain elevators, abattoirs, workshops, factories, and all public or private structures where domestic or other animals are kept.

***Occupant*** means the individual, partnership or corporation that has the use of or occupies any business building or any part thereof, whether the actual owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, the owner thereof shall have the responsibility of or be deemed the tenant thereof.

***Opening*** means and refers to any opening in the foundation, sides or walls, ground or first floors, basements and roofs, including chimneys, eaves, grills, windows, ventilators, sidewalk grates and elevators, and around any pipe, wire or other installation connecting with a building through which a rat may enter.

***Owner*** means the actual owner of the business building, whether an individual, partnership or corporation, or agent of the building or other person having custody of the building or to whom rent is paid. For business buildings leased with a covenant in the lease specifying that the lessee is responsible for maintenance and repairs, the lessee will be considered in such cases as the "owner" for the purpose of this article.

***Premises*** includes all business buildings, sheds, barns, animal pens or shelters, garages, docks, wharves, piers, grain elevators and abattoirs, whether public or private, used in connection with the operation of any business building.

***Rat eradication*** means the removal, killing, destruction or extermination of rats by systematic use of traps or of poisons or by other methods.

***Rat harborage*** means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside of a structure of any kind.

***Rat-stoppage* or *rat proofing*** applies to a relatively inexpensive form of rat proofing to prevent the ingress of rats into business buildings from the exterior or from one (1) building or business establishment to another. It consists essentially of the closing or protection of all openings in the exterior walls, ground or first floors, basements, roofs and foundations with material impervious to rat gnawing in such a manner as to prevent rats from gaining entrance.

## SECTION 6-22. – AUTHORITY OF HEALTH OFFICER.

Subject to constitutional limitations, the county health officer or his/her designee is empowered to make such inspections of the interior and exterior of business buildings as in his opinion may be necessary to determine full compliance with this article, and the health officer shall make periodic inspections of all rat proofed buildings to determine evidence of rat infestation and the existence of new breaks or leaks in their rat proofing. Whenever evidence is found indicating the presence of rats or openings through which rats may again enter business buildings, the health officer shall serve the owner with notices and orders to abate the conditions found, and a failure to remedy the conditions within three (3) days after notice shall be deemed a violation of this article.

## SECTION 6-23. – BUSINESS BUILDINGS TO BE RAT PROOF.

a) In the interest of the public health and to prevent the spread of typhus fever and other rat-borne diseases and infections, it is hereby required and ordered that all business buildings within the town be made rat proof in order to prevent entry of rats into and upon the premises, and the business buildings shall be kept and maintained in a rat-free condition.

b) All newly constructed business buildings and additions to existing business buildings shall be rat proofed during the process of construction.

c) The owners of all rat proofed business buildings shall maintain the same in a rat proof condition and repair all breaks or leaks that may occur in the rat proofing, and the occupants

of all rat proofed business buildings shall take such action as may be necessary and appropriate to eradicate all rats from the buildings and to keep the same free from rats.

### SECTION 6-24. – MAINTENANCE OF RAT PROOFING.

It shall be unlawful for the occupant, owner, contractor, Public Utility Company, plumber, electrician or any other person to remove the rat proofing from any business building for any purpose and fail to restore the same in a satisfactory condition or make any new openings and fail to close and seal same against the entrance of rats.

### SECTION 6-25. – STORAGE OF FEED FOR ANIMALS AND FOWL.

All food and feed kept for feeding chickens and other animals shall be kept and stored in rat-free and rat proof containers, compartments or rooms unless kept in a rat proofed building.

### SECTION 6-26. – STORAGE OF MATERIALS.

It shall be unlawful for any person to store or accumulate on any premises, improved or vacant, any lumber, boxes, barrels, bricks, stones or similar materials unless the same shall be neatly stored, stacked or accumulated so that these materials will not afford harborage for rats.

### SECTIONS 6-27. – 6-30. – RESERVED.

## CHAPTER 4. – SMOKING IN PUBLIC PLACES

### SECTION 6-31. – DEFINITION

"Smoking" shall mean the inhaling, exhaling, burning or carrying of lighted pipe, cigar, cigarettes or other combustible tobacco product.

### SECTION 6-32. – WHERE SMOKING PROHIBITED OR REGULATED

a) Smoking shall be restricted within all public buildings and grounds including hallways, waiting rooms, restrooms, meeting rooms, public works facilities, the wastewater treatment plant, water plant, Fire Department, Police Department and adjoining offices used by county and state officials owned by the town.

b) Smoking may be permitted in private, enclosed offices (offices assigned to one person) even though such offices may be visited in the normal course of business by a nonsmoking employee:

(1) Said office shall have installed an air cleaning device that will remove 94%-99% of secondary smoke.

(2) Smoking will not be permitted within an approved private office when meeting with either the public or with town employees.

c) Smoking shall be permitted in designated break areas in public buildings. These areas shall be identified by the person in charge and shall be limited to one location. Each designated area shall have installed an air cleaning device that will remove 94%-99% of secondary smoke.

d) Smoking is strictly prohibited in town owned and/or leased vehicles when two people are present and one person is a nonsmoker. Smokers shall not expose nonsmokers to environmental tobacco smoke in town vehicles.

e) Smoking is not permitted in the following public meetings: Board of Commissioners, Planning Board, Board of Adjustments, Recreation Commissions, and any other committee meetings held in public buildings. Smoking may be permitted during these meetings in the area that serves as a lobby, if said lobby is physically separated from the meeting or spectator area. Hallways are not considered as lobby areas.

f) Copies of this policy shall be distributed to all employees. Appropriate "No Smoking" signs with letters of not less than one inch in height shall be posted at all building entrances and throughout the building.

(Ord. -, passed 3-2-93)

***State Law Reference—*** *Public Health Law of North Carolina, G.S. § 130A-1 et seq.; abatement of public health nuisances, G.S. § 160A-193.*

## SECTION 6-33. – PENALTY.

(a) Employees who violate this policy will be subject to the same disciplinary action that accompany violation of other personnel rules.

(b) A misdemeanor warrant may be issued that may subject the violation to a fine not to exceed the amount set by the Board of Commissioners or imprisonment not to exceed 30 days.

(Ord. -, passed 3-2-93)

## SECTION 6-34. – 6-35. – RESERVED.

# TITLE 7. – HOUSING

## CHAPTER 1. – NONDISCRIMINATION IN HOUSING (OPEN HOUSING)

### SECTION 7-1. –OFFICIAL POLICY.

The town has declared it an official policy of the town government that there shall be no discrimination in the rental or sale of housing in the town based on race, color, religion, sex, handicap, or national origin. All business groups and individual citizens of the town are urged to respect and implement this policy.
(Res. passed 10-7-80)

### SECTIONS 7-2. – 7-5. –RESERVED.

## CHAPTER 2. – MINIMUM STANDARDS

### ARTICLE 1. GENERAL PROVISIONS

### SECTION 7-6. –FINDING AND PURPOSE.

Pursuant to G.S. section 160A-441, 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 other conditions, and there exist abandoned structures which constitute health and safety hazards due to the attraction of insects, conditions creating fire hazards, dangerous conditions constituting a threat to children, and frequent use by vagrants, such that these dwellings and abandoned structures are detrimental to the health, safety and morals and otherwise inimical to the welfare of the residents of the town.
In order to protect the health, safety and welfare of the residents of the Town as authorized by Part 6 of Article 19, Chapter 160A of the General Statutes, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, and for all abandoned structures, as expressly authorized by G.S. section 160A-441.
***State Law Reference—*** *Authority to adopt and enforce ordinances relating to dwellings that are unfit for human habitation, G.S. § 160A-443.* ***State Law Reference—*** *Minimum housing standards, G.S. § 160A-441 et seq.*

### SECTION 7-7. –DEFINITIONS.

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

***Basement*** means a portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

***Cellar*** means a portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

***Deteriorated*** means that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this article, at a cost not in excess of fifty (50) percent of its value, as determined by the finding of the inspector.

***Dilapidated*** means that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this article at a cost not in excess of fifty (50) percent of its value, as determined by the finding of the inspector.

***Dwelling*** means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing shall not be regarded as a dwelling.

***Dwelling unit*** means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

***Extermination*** means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the inspector.

***Garbage*** means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

***Habitable room*** means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

***Infestation*** means the presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or to the public.

***Inspector*** means a building inspector of the town or any assistant building inspector of the town or any agent of the inspector who is authorized by the inspector.

***Multiple dwelling*** means any dwelling containing more than two (2) dwelling units.

***Occupant*** means any person over one (1) year of age living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit.

***Operator*** means any person who has charge, care or control of a building or part thereof in which dwelling units or rooming units are let.

***Owner*** means any person who alone or jointly or severally with others:

(1) Shall have title to any dwelling unit, with or without accompanying actual possession thereof;
(2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner or as executor, Manager, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner; or

(3) Is a mortgagee of record with respect to the property where such dwelling is located.

***Parties in interest*** means all individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

***Plumbing*** means and includes all of the following supplied facilities and equipment: Gas pipes, gas-burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

***Public authority*** means the redevelopment commission or any officer who is in charge of any department or branch of the government of the town or of the county or the state relating to health, fire, building regulations or other activities concerning dwellings in the town.

***Rooming unit*** means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

***Rooming house*** means any dwelling or that part of any dwelling containing one (1) or more rooming units in which space is let by the owner or operator to three (3) or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

***Rubbish*** means combustible and noncombustible waste materials, except garbage and ashes, and the word includes paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

***Supplied*** means paid for, furnished or provided by or under the control of the owner or operator.

***Temporary housing*** means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than thirty (30) consecutive days.

***Unfit for human habitation*** means that conditions exist in a dwelling which violate or do not comply with one (1) or more of the minimum standards of fitness or one (1) or more of the requirements established by this article.

## SECTION 7-8. –RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

a) *Public areas.* Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
b) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.
c) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

d) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

e) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface or impair any of the facilities or equipment or any part of the structure of a dwelling or dwelling unit.

### SECTIONS 7-9. – 7-10. –RESERVED.

## ARTICLE 2 - MINIMUM STANDARDS FOR DWELLINGS AND DWELLING UNITS

### SECTION 7-11. –COMPLIANCE REQUIRED.

(a) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of this subchapter.

(b) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this subchapter.

### SECTION 7-12. –STRUCTURAL CONDITIONS.

The following shall be the minimum standards for structural condition of dwellings or dwelling units:

(a) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean, or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.

(b) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(c) Foundations, foundation walls, piers, or other foundation supports shall not be deteriorated or damaged.

(d) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(e) Adequate facilities for egress in case of fire or panic shall be provided.

(f) Interior walls and ceilings of all rooms, closets, and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner as to enable the occupants to maintain reasonable privacy between various spaces.

(g) The roofs, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather- and watertight.

(h) There shall be no chimneys or parts thereof which are defective, deteriorated, or in danger of falling, or in such condition or location as to constitute a fire hazard.

(i) There shall be no use of the ground for floors, or wood floors on the ground.

### SECTION 7-13. –BASIC EQUIPMENT AND FACILITIES.

The following shall be the minimum standards for basic equipment and facilities in dwellings and dwelling units:

(a) Plumbing system.

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants thereof. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(b) Heating system. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the following:

(1) Central and electric heating systems. Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms, and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70°F measured at a point three feet above the floor during ordinary winter conditions.

(2) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, or gas vents, or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of 70°F measured three feet above the floor during ordinary winter conditions.

(c) Electrical system.

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor- or wall-type electric convenience receptacles, connected in such manner as determined by the State Electrical Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor- or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment, and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the State Electrical Code.

## SECTION 7-14. –VENTILATION.

The following shall be the minimum standards for ventilation in dwellings and dwelling units:

(a) General. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of that room. Whenever walls or other portions of structures face a window or any room and those light-obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of the room, the total window area of that skylight shall equal at least 15% of the total floor area of the room.

(b) Habitable rooms. Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area

in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.

(c) Bathroom and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

## SECTION 7-15. –SPACE, USE, LOCATION.

The following shall be the minimum standards for space, use, and the location applicable to dwellings and dwelling units:

(a) Room sizes.

(1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code.

(2) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant.

(3) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over, and at least 35 square feet of floor area for each occupant under 12 years of age.

(b) Ceiling height. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

(c) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than 4-1/2 feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

(d) Cellar. No cellar shall be used for living purposes.

(e) Basements. No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight.

(2) The total window area, total openable window area, and ceiling height are equal to those required for habitable rooms.

(3) The required minimum window area of every habitable room is entirely above the grade adjoining that window area, except where the window or windows face a stairwell, window well, or access way.

## SECTION 7-16. –SAFE AND SANITARY MAINTENANCE.

The following shall be the minimum standards for safe and sanitary maintenance applicable to dwellings and dwelling units:

(a) Exterior foundations, walls and roofs. Every foundation wall, exterior wall, and exterior roof shall be substantially weathertight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(b) Interior floors, walls and ceilings. Every floor, interior wall, and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

(c) Windows and doors. Every window, exterior door, basement, or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair.

(d) Stairs, porches, and appurtenances. Every outside and inside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.

(e) Bathroom floors. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit that floor to be easily kept in a clean and sanitary condition.

(f) Supplied facilities. Every supplied facility, piece of equipment, or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(g) Drainage. Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.

(h) Noxious weeds. Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(i) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the State Residential Building Code.

## SECTION 7-17. –CONTROL OF INSECTS, RODENTS, AND INFESTATIONS.

The following shall be the minimum standards for control of insects, rodents, and infestations in dwellings and dwelling units:

(A) Screens. In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens.

(B) Rodent control. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance.

(C) Infestation. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for the extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(D) Rubbish storage and disposal. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by this code and other town ordinances, and the owner, operator, or agent in control of that dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) Garbage storage and disposal. Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an approved outside garbage can as required by this code or other town ordinances.

### SECTIONS 7-18. – 7-20. –RESERVED.

## ARTICLE 3 - MINIMUM STANDARDS FOR ROOMING HOUSES

### SECTION 7-21. –APPLICATION OF REGULATIONS.

All of the provisions and all of the minimum standards and requirements of this chapter shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy and any rooming unit in any rooming house, except as provided in this subchapter.

### SECTION 7-22. –WATER CLOSET, LAVATORY, AND BATH FACILITIES.

(A) At least one water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever these facilities are shared. All such facilities shall be located within the residence building served, and shall be directly accessible from a common hall or passageway, and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(B) Every water closet, flush urinal, lavatory basin, and bathtub or shower required by division (A) of this section shall be located within the rooming house and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the rooming house or through any other room therein.

### SECTION 7-23. –MINIMUM FLOOR AREA.

Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

### SECTION 7-24. –SANITARY CONDITIONS.

The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house. He shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

### SECTIONS 7-25. – 7-27. –RESERVED.

## ARTICLE 4 - ADMINISTRATION AND ENFORCEMENT

### SECTION 7-28. –DUTIES AND POWERS OF THE BUILDING INSPECTOR.

The Building Inspector is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. The Building Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter. The Building Inspector shall have the following powers and duties:

(A) To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the town, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this chapter with respect to the repair, closing or demolition of such dwellings and dwelling units.

(B) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated.

(C) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed.

(D) To administer oaths and affirmations, examine witnesses and receive evidence.

(E) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with **§7-29** and state law, and shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

(F) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to assist in carrying out the purposes of this chapter, and to delegate any of his functions and powers to such officers, agents, and employees.

(G) To perform such other duties as may be herein prescribed or by the Board of Commissioners.

### *SECTION 7-29. –RIGHT OF ENTRY OF BUILDING INSPECTOR.*

(a) For the purpose of making inspections, the Inspector is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, rooming house, or rooming unit, or the person in charge thereof shall give the Inspector free access to that dwelling and its premises at all reasonable times for the purposes of such inspection, examination, and survey.

(b) Every occupant of a dwelling, dwelling unit, rooming house, or rooming unit shall give the owner thereof, or his agent or employee, access to any part of that dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

### *SECTION 7-30. –ENFORCEMENT PROCEDURE.*

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

(b) Procedure after hearing. After such notice and hearing, the Inspector shall state in writing his determination whether the dwelling or dwelling unit is unfit for human habitation, and if so, whether it is deteriorated or dilapidated.

(1) If the Inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of that determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve the dwelling or

dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed 90 days. The order may also direct and require the owner to vacate and close the dwelling or dwelling unit until the repairs, alterations, and improvements have been made.

(2) If the Inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support that determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter, or improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter, or else to vacate and remove or demolish them within a specified period of time not to exceed 90 days.

(c) Failure to comply with order.

(1) In Personam remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter, or improve, or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve, or to vacate and close and remove or demolish the same within the time specified therein, the Inspector shall submit to the Board of Commissioners at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing that owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

(2) In rem remedy. After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (C)(1) above, the Inspector shall submit to the Board of Commissioners an ordinance ordering the Inspector to cause that dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the Inspector, and pending removal or demolition, to place a placard on that dwelling as provided by G.S. § 160A-443 and **§7-29** .

(d) Appeals from orders of Inspector.

(1) An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the Housing Appeals Board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of this requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except for due cause shown upon not less than one day's written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and division (E) below.

(2) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or

order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, to adapt the application of this chapter to the necessities of the case to the end that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.

(3) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

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

### SECTION 7-31. –METHOD OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail. If the whereabouts of such persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of the complaint or order upon that person may be made by publishing the same at least once no later than the time at which personal service would be required under the provisions of this ordinance in a newspaper having general circulation in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

### SECTION 7-32. – IN REM ACTION BY INSPECTOR; PLACARDING.

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this chapter, and upon adoption by the Board of Commissioners of an ordinance authorizing and directing him to do so, as provided by G.S. § 160A-443(5) and **§7-30,** the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Board of Commissioners, and shall cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful". Occupation of a building so posted shall constitute a misdemeanor.

(b) Each ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443(5).

### SECTION 7-33. – COSTS A LIEN ON PREMISES.

As provided by G.S. § 160A-443(6), the cost of any repairs, alterations, or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to §7-30, shall be a lien against the real property upon which such cost was incurred. The lien shall be filed, having priority, and be collected in the same manner as the lien for special assessments established by G.S. § 160A-216 through 160A-238.

### SECTION 7-34. – ALTERNATIVE REMEDIES.

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. § 14-4 and **§7-37**, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

### SECTION 7-35. – OTHER PROVISIONS.

(a) In the event any provision, standard, or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

(b) Any ordinance enacted by the Board of Commissioners relative to minimum housing standards shall not be suspended by this chapter, and any county ordinance shall be applicable within the corporate limits.

### SECTION 7-36. – VIOLATIONS.

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

(B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to **§7-30,** to occupy or permit the occupancy thereof after the time prescribed in the order for its repair, alteration or improvement or its vacation and closing. Each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

### SECTION 7-37. – PENALTY.

(A) The violation of any provision of this chapter shall constitute a misdemeanor, as provided by G.S. § 14-4.

(B) In addition to the penalty established by division (A) above, and the remedies provided by other provisions of this chapter, this chapter may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

### SECTION 7-38. –ZONING BOARD OF ADJUSTMENT TO HEAR APPEALS.

All appeals which may be taken from decisions or orders of the inspector pursuant to **§7-30** of this article shall be heard and determined by the zoning board of adjustment. As the appeals body, the board shall have power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The board shall perform the duties prescribed by **§7-30** and shall keep an accurate journal of all its proceedings.

### SECTION 7-39. –CONFLICT WITH OTHER PROVISIONS.

If any provision, standard or requirement of this article is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

### SECTION 7-40. –APPLICABILITY TO ABANDONED STRUCTURES.

The procedures and minimum standards for the regulation of dwellings and dwelling units set out in this article shall apply to abandoned structures in the town, except that abandoned structures are not required to meet minimum standards that are uniquely applicable to occupied dwellings and dwelling units, such as standards for heating systems and minimum room sizes.

### SECTIONS 7-41. – 7-45. –RESERVED.

## CHAPTER 3. – FAIR HOUSING STANDARDS

### SECTION 7-46. –DECLARATION OF POLICY.

The policy of the Town is to ensure equal housing accommodations for sale or for rent.

***State Law Reference—*** *State Fair Housing Act, G.S. § 41A-1 et seq.*

### SECTION 7-47. –APPLICABILITY.

The provisions of this article relative to discrimination in housing shall apply to the sale or rental of a house to a person in a single dwelling unit and to the rental or lease of a portion of a dwelling house containing accommodations for a family, except when the remainder of the dwelling is occupied by the owner or a member of his immediate family.

### SECTION 7-48. –PROHIBITED PRACTICES ENUMERATED; EXCEPTIONS.

(a) No owner of real property shall discriminate against any other person because of the religion, race, color, national origin, sex, age, handicap or family status of such other person, or because of religion, race, color, national origin, ancestry, sex, age, handicap or family status of the friends or associates of such other person in regard to the sale or rental of or dealings concerning real property located within the town. Any such discrimination shall be considered an unlawful housing practice.

(b) Nothing in this section shall require an owner to offer property to the public at large before selling or renting it, nor shall this section be deemed to prohibit owners from giving preference to prospective tenants or buyers for any reason other than religion, race, color, national origin, sex, age, handicap or family status.

(c) Nothing in this section shall be construed to bar any religious or denominational institution or organization or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it has been established or maintained.

### SECTION 7-49. –GRIEVANCES.

a) Any person who contends that the provisions of this article have been violated may file a written complaint under oath with the Board of Commissioners, hereby designated as the entity to which complaints shall be filed. Within ten (10) days after the complaint has been filed, the Board shall make a determination of the merits and reasonableness of the complaint and shall attempt to adjust the grievance between the parties.

b) If the complaint or grievance is not resolved by the parties through the officer, either party to the alleged complaint or the officer may, within twelve (12) months of the alleged violation, appeal or refer the complaint or grievance to the state human relations commission (North Carolina Human Relations Commission, 121 West Jones Street, Raleigh, NC 27603-1334). Upon an appeal being properly filed, the officer shall transmit to the human relations commission all papers constituting the record of the matters.

### SECTION 7-50. –INTERPRETATIONS; CONFLICTS.

a) In interpreting and applying the provisions of this article, the purpose and spirit for which it is offered shall be of primary concern.

b) It is not intended by this article to interfere with, abrogate, annul or circumvent the Civil Rights Acts of 1964 and 1968, the Federal Fair Housing Act (42 U.S.C.A. § 3601 et seq.), or other laws with regard to fair housing practices. The filing of a complaint under this article will not preclude the claim from being pursued in any other court or jurisdiction. It is intended to offer reasonable persons, acting in good faith, an opportunity to resolve their differences in an atmosphere of a non-adversary proceeding.

### *SECTIONS 7-51. – 7-55 – RESERVED.*

# TITLE 8. – MOTOR VEHICLES AND TRAFFIC

## CHAPTER 1. - GENERAL

### ARTICLE 1. GENERAL

#### SECTION 8-1. – DEFINITIONS.

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

***Authorized emergency vehicle*** includes vehicles of the fire department, police vehicles and such ambulances designated or authorized by the police authority.

***Block*** means a portion of any street located between two (2) street intersections.

***Business district*** means the territory contiguous to a highway when fifty (50) percent or more of frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

***Central business district*** means the immediate downtown area.

***Crosswalk*** means that portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections; any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

***Driver*** means every person who drives or is in actual physical control of a vehicle.

***Intersection*** means the area embraced within the prolongation of the lateral curb lines or, if none, then the lateral boundary lines of two (2) or more highways which join one another at an angle, whether or not one (1) such highway crosses the other.

***Motorcycle*** means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground. Shall include a mini-bike but exclude a tractor.

***Motor vehicle*** means every vehicle which is self-propelled and every vehicle which is propelled by electric power; including batteries.

***Official time standard*** means standard time or daylight saving time, as may be in current use in this town, whenever certain hours are named in this chapter.

***Official traffic-control*** *devices* means all signs, signals, markings and devices not inconsistent with this chapter, placed or erected by authority of the Board of Commissioners or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

***Official traffic signal*** means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

***Park*** means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

***Pedestrian*** means any person on foot.

***Police officer*** means every officer of the municipal police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

***Private road or driveway*** means every road or driveway not open to the use of the public for purposes of vehicular travel.

***Public conveyance*** means any vehicle other than a taxicab or railroad train for transporting for fare.

***Railroad*** means a carrier of persons or property upon cars, other than street cars, operated upon stationary rails.

***Railroad train*** means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except street cars.

***Residential district*** means the territory contiguous to a highway not comprising a business district when the frontage on such highway for a distance of three hundred (300) feet or more is mainly occupied by dwellings or by dwellings and buildings in use for dwelling purposes.

***Right-of-way*** means the privilege of the immediate use of the roadway.

***Roadway*** means that portion of a street improved, designed or ordinarily used for vehicular travel.

***Safety zone*** means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

***Sidewalk*** means that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

***Standing*** means any stopping of a vehicle, whether occupied or not.

***Stop,*** when required, means complete cessation of movement.

***Stop* or *stopping,*** when prohibited, means any stopping of a vehicle except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic-control sign or signal.

***Street* or *highway*** means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purpose of vehicular traffic.

***Traffic*** means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances, either singly or together, while using any street for purposes of travel.

***Traffic signs*** means authorized signs or markers which are assumed to be permanently or temporarily placed or erected or installed at certain places and which purport to give notice of direction or to convey a prohibition or warning. The presence of such signs, though not compulsory, is generally dictated by necessity or common sense, with a view to furtherance of public safety.

***Truck*** means any vehicle with an axle load limit in excess of thirteen thousand (13,000) pounds.

***Vehicle*** means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks. For the purpose of this chapter, a bicycle or a ridden animal shall be deemed a vehicle.

### SECTION 8-2. – COMPLIANCE WITH ORDER OR DIRECTION OF THE POLICE.

No person shall willfully fail or refuse to comply with any lawful order or direction by a law enforcement officer given in the performance of duties or the exercise of powers prescribed by this chapter.
('70 Code, 2009 S-5 Supplement, § 13-6) (Ord. passed 8-23-48)

### SECTION 8-3. – APPLICATION OF REGULATIONS TO PUBLIC EMPLOYEES.

The provisions of this title applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any political subdivisions thereof, or of any city, town, or district, except persons, teams, motor vehicles, and other equipment while actually engaged in maintenance or construction work on the highways, but not while traveling to or from such work.
(G.S. § 20-168) ('70 Code, 2009 S-5 Supplement, § 13-2)

### SECTION 8-4. – EXEMTIONS FOR AUTHORIZED EMERGENCY VEHICLES.

(b) The provisions of this title regulating the operation, parking, and standing of vehicles shall apply to authorized emergency vehicles except as follows. Except when otherwise directed by a police officer, a driver when operating such vehicle in any emergency may:
    (1) Park or stand, notwithstanding the provisions of this title;
    (2) Proceed past a red or stop signal, or stop sign, but only after slowing down as may be necessary for safe operation;
    (3) Exceed the prima facie speed limits so long as he does not endanger life or property;
    (4) Disregard regulations governing distance of movement, or turning, in specified directions so long as he does not endanger life or property.

(c) The foregoing exemptions shall not, however, protect the driver of any such vehicle from the consequences of his reckless disregard of the safety of others.

('70 Code, 2009 S-5 Supplement, § 13-5) (Ord. 16, passed 8-3-43)

### SECTION 8-5. – APPLICATION TO PERSONS PROPELLING PUSHCARTS OR RIDING ANIMALS.

Every person propelling any pushcart or riding or driving an animal upon a roadway and every person driving any animal-driven vehicle shall be subject to the provisions of this title applicable to the driver of any vehicle, except those provisions of this title which, by their very nature, can have no application.
('70 Code, 2009 S-5 Supplement, § 13-4) (Ord. passed 8-23-48)

### SECTION 8-6. – ENTERING, JUMPING ON, OR RIDING VEHICLE WITHOUT PERMISSION OF OWNER OR DRIVER.

No person shall enter, jump on, or ride any vehicle without the consent of the owner or driver of such vehicle.
('70 Code, 2009 S-5 Supplement, § 13-55)

### SECTION 8-7. – PERSONS TO STAY INSIDE VEHICLES; HANGING ON TO VEHICLES PROHIBITED.

No person when riding in a vehicle shall allow any part of his body to protrude beyond the limits of the vehicle in which he is riding, except to give such signals as are by law required. No person shall hang onto any vehicle whatsoever.
('70 Code, 2009 S-5 Supplement, § 13-56)

### SECTION 8-8. – LIMITATION ON NUMBER OF PERSONS PERMITTED IN FRONT SEAT

It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than three (3) persons, including the driver, to ride in the front or driver's seat of a motor vehicle.
('70 Code, 2009 S-5 Supplement, § 13-57)
***O****vercrowding of vehicle, see G.S. § 20-140.2*

### SECTION 8-9. – SOLICITNG RIDES PROHIBITED.

It shall be unlawful for any person to stand in the streets and solicit rides from drivers of any passing vehicle.
('70 Code, 2009 S-5 Supplement, § 13-52)

### SECTION 8-10. – USE OF SKATES, COASTERS, SKATEBOARDS, ETC.

No person upon roller skates or riding in or by means of any coaster, toy vehicle or similar device shall go upon any roadway, except while crossing a street at a crosswalk or intersection and except upon streets set aside as play streets.

### SECTION 8-11. – FAILURE TO OBEY A CITATION.

It shall be unlawful for any person to violate his written promise to appear that is given to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which such citation was originally issued.

### SECTIONS 8-12. – 8-15. – RESERVED.

## ARTICLE 2. MOTOR VEHICLE REGISTRATION

### SECTION 8-16. – REGISTRATION REQUIRED; FEE.

(a) Every resident motor vehicle operated in the town, except those temporarily operated for a period not exceeding a total of 14 days during any one year, and except those operated for display or exhibition purposes by manufacturers or dealers and which display dealers' license plates issued by the state, shall be registered by the Town Registrar of Vehicles during the month of January each year, or within 30 days of its purchase or acquisition by any resident of the town, or within 30 days after the owner of a vehicle becomes a resident of the town.

(b) The motor vehicle registration fee may be increased up to the amount set by the Board of Commissioners as permitted by G.S. § 20-97, and shall not be prorated.

(c) The Town Registrar of Vehicles shall be the town officer designated for such purpose by the Board of Commissioners, or by the Town Manager with approval of the Board of Commissioners.

('70 Code, 2009 S-5 Supplement, § 13-11) (Ord. passed 8-23-48; Am. Ord. 11, passed 6-8-67)

***Statutory reference:*** *Authority to impose, see G.S. §§ 20-97 and 160A-213*

### SECTIONS 8-17. – VEHICLE REGISTRATION PLATES.

For every motor vehicle registered pursuant to this subchapter an appropriate number plate shall be issued, which shall be prominently displayed on the exterior of the vehicle. A number plate shall not be transferred from one person to another. When a number plate has been lost or destroyed, the Town Registrar of Vehicles shall issue to the registrant a substitute plate, upon payment of a fee as set forth in *Section 8-16.*

('70 Code, 2009 S-5 Supplement, § 13-12) (Ord. passed 8-23-48)

### SECTIONS 8-18. – COMPLIANCE.

It shall be unlawful for any person to drive upon the streets of the town any vehicle required by this subchapter to be registered unless such vehicle has been so registered and displays the registration plate or sticker of the current registration year.

('70 Code, 2009 S-5 Supplement, § 13-13)

### SECTIONS 8-19. – PENALTY.

Whoever violates any provision of this traffic code for which no other penalty is provided, shall be fined not more than the amount set by the Board of Commissioners or imprisoned for not more than 30 days. Each day's violation shall constitute a separate offense.

('70 Code, 2009 S-5 Supplement, § 1-6)

### SECTIONS 8-20. – 8-25. – RESERVED.

# CHAPTER 2. – OPERATION OF VEHICLES

### SECTION 8-26. – DRIVING ON RIGHT HALF OF STREET.

Upon all streets of sufficient width, except upon one-way streets, the driver of a vehicle shall drive the vehicle upon the right half of the street and shall drive a slow-moving vehicle as closely as possible to the right-hand edge or curb of such street, unless it is impracticable to travel on such side of the street and except when overtaking and passing another vehicle subject to the limitations applicable in overtaking and passing.

**State Law Reference—** Similar provisions, G.S. § 20-146.

### SECTION 8-27. – CROSSING AN INTERSECTION OR RAILROAD.

In crossing an intersection of streets or the intersection of a street by a railroad right-of-way, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the street, unless such right half is obstructed or impassable.

**State Law Reference—** Similar provisions, G.S. § 20-147.

### SECTION 8-28. – PASSING A VEHICLE PROCEEDING IN THE OPPOSITE DIRECTION.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

**State Law Reference—** Similar state law, G.S. § 20-148.

### SECTION 8-29. – PASSING A VEHICLE PROCEEDING IN THE SAME DIRECTION.

(a) The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at least two (2) feet to the left thereof and shall not again drive to the right side of the street or highway until safely clear of such overtaken vehicle.

(b) The driver of a vehicle shall not drive to the left side of the center of a street or highway in overtaking and passing another vehicle proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.

(c) The driver of a vehicle shall not overtake and pass another vehicle proceeding in the same direction upon the crest of a grade or upon a curve in the street or highway where the driver's view is obstructed within a distance of five hundred (500) feet.

(d) The driver of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any railway grade crossing nor at any intersection, unless permitted so to do by a traffic or police officer.

**State Law Reference—** Similar provisions, G.S. §§ 20-149, 20-150.

### SECTION 8-30. – RIGHT OF WAY.

(a) When two (2) vehicles, at approximately the same time, approach or enter an intersection at which traffic is not controlled by an official traffic-control device, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right, except as otherwise provided in this chapter.

(b) The driver of a vehicle approaching but not having entered an intersection shall yield the right-of-way to a vehicle already within such intersection, whether the vehicle in the intersection is proceeding straight ahead or turning in either direction. However, this subsection shall not be interpreted as giving the right-of-way to a vehicle already in an intersection when such vehicle is turning either to the right or left, unless the driver of such vehicle has given a plainly visible signal of intention to turn as required.

(c) The driver of any vehicle approaching but not having entered a traffic circle shall yield the right-of-way to a vehicle already within such traffic circle.

**State Law Reference—** Similar provisions, G.S. § 20-155.

### SECTION 8-31. – EXCEPTIONS TO THE RIGHT OF WAY RULE.

(a) The driver of a vehicle entering a public street or highway from a private road or drive shall yield the right-of-way to all vehicles approaching on such public street or highway.

(b) The driver of a vehicle upon a street or highway shall yield the right-of-way to police and fire department vehicles and public and private ambulances when the latter are operated upon official business and the driver's thereof sound audible signal by bell, siren or exhaust whistle. This subsection shall not operate to relieve the driver of a police or fire department vehicle or public or private ambulance from the duty to drive with due regard for the safety of all persons using the street or highway, nor shall it protect the driver of any such vehicle from the consequence of any arbitrary exercise of such right-of-way.

***State Law Reference—*** *Similar provisions, G.S. § 20-156.*

## SECTION 8-32. – METHOD FOR TURNING AT INTERSECTIONS.

(a) Except as otherwise provided in this section, the driver of a vehicle intending to turn to the right at an intersection shall approach such intersection in the lane for traffic nearest to the right-hand side of the street and, in turning, shall keep as closely as practicable to the right-hand curb or edge of the street. The driver of a vehicle intending to turn to the left shall approach such intersection in the lane for traffic to the right of and nearest to the center of the street and, in turning, shall pass beyond the center of the intersection, passing as closely as practicable to the right thereof before turning such vehicle to the left. When a vehicle is being operated on a three-lane street, the driver thereof intending to turn to the left at an intersection shall approach the intersection in the lane nearest to the center of the street and designated for use by vehicles traveling in the same direction as the vehicle about to turn.

(b) For the purpose of this section, the center of the intersection shall mean the meeting point of the medial lines of the streets intersecting one another.

(c) The Board of Commissioners may modify the foregoing method of turning at intersections by clearly indicating, by buttons, markers or other direction signs within an intersection installed or erected in the course to be followed by vehicles turning thereat, and it shall be unlawful for any driver to fail to turn in accord with such indications.

**State Law Reference—** Similar provisions, G.S. § 20-153.

## SECTION 8-33. – SIGNALS FOR STOPPING, STARTING OR TURNING.

(a) The driver of a vehicle upon a street, before starting, stopping or turning from a direct line, shall first see that such movement can be made in safety and, if any pedestrian may be affected by such movement, shall give a clearly audible signal by sounding the horn and, whenever the operation of any other vehicle may be affected by such movement, shall give a signal plainly visible to the driver of such other vehicle of the intention to make such movement. The signal indicating the driver's intention to stop or turn shall be maintained or given continuously for the last one hundred (100) feet traveled prior to stopping or making a turn.

(b) The signal required by subsection (a) of this section shall be given by means of the hand and arm or by any mechanical or electrical signal device approved by the state department of motor vehicles, except that when a vehicle is so constructed or loaded as to prevent the hand and arm signal from being visible both to the front and rear, the signal shall be given by a device of a type which has been approved by such department, and any motor vehicle in use on a street shall be equipped with and the required signal shall

be given by such signal device when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such vehicle exceeds twenty-four (24) inches or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles, except combinations operated by farmers in hauling farm products. Also, the required signal shall be given by such a device if the motor vehicle has a right-hand drive or is equipped with the steering mechanism on the right-hand side thereof.

***State Law Reference—*** *Similar provisions, G.S. § 20-154.*

### SECTION 8-34. – METHOD OF GIVING SIGNAL WITH HAND OR ARM.

Whenever the signal is given by hand and arm, the driver shall indicate his intention to start, stop or turn by extending the hand and arm from and beyond the left side of the vehicle as follows:

*Left turn.* Hand and arm horizontal, forefinger pointing.

*Right turn.* Hand and arm pointed upward.

*Stop.* Hand and arm pointed downward.

***State Law Reference—*** *Similar provisions, G.S. § 20-154.*

### SECTION 8-35. – CORNER-CUTTING.

It shall be unlawful for any person to drive any motor vehicle upon or across any sidewalk, driveway, filling station or other commercial driveway or other similar surface located at the corner of any intersection protected by a traffic light or other traffic signal or sign for the purpose of evading the regulations governing the turning of motor vehicles at intersections.

### SECTION 8-36. – FOLLOWING TOO CLOSELY.

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, with regard for the safety of others and due regard to the speed of such vehicle and the traffic upon and condition of the highway.

***State Law Reference—*** *Similar provisions, G.S. § 20-152.*

### SECTION 8-37. – PROCEDURE UPON APPROACH OF POLICE OR OTHER EMERGENCY VEHICLE.

Upon the approach of any law enforcement or fire department vehicle giving audible signal by bell, siren or exhaust whistle, the driver of every other vehicle shall immediately drive the vehicle to a position as near as possible and parallel to the right-hand edge or curb, clear of any intersection, and shall stop and remain in such position, unless otherwise directed by a police or traffic officer, until the police or fire department vehicle shall have passed.

***State Law Reference—*** *Similar provisions, G.S. § 20-157(a).*

### SECTION 8-38. – FOLLOWING FIRE APPARATUS OR DRIVING NEAR THE SCENE OF A FIRE.

It shall be unlawful for the driver of any vehicle other than one on official business to follow any fire apparatus traveling in response to a fire alarm closer than one (1) block or to drive within one (1) block where fire apparatus has stopped in answer to a fire alarm.

***State Law Reference—*** *Similar provisions, G.S. § 20-157(b).*

### SECTION 8-39. – DRIVING OVER FIRE HOSE OF BLOCKING FIRE APPARATUS.

It shall be unlawful for any person to drive a vehicle over a fire hose or any other equipment that is being used at a fire at any time or to block a firefighting apparatus or any other equipment from its source of supply, regardless of its distance from the fire.

***State Law Reference—*** *Similar provisions, G.S. § 20-157(d).*

### SECTION 8-40. – DRIVING ON ROADWAYS LANED FOR TRAFFIC.

All vehicles operated on any roadway which has been clearly marked with lanes for traffic shall be driven as nearly as practical entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

### SECTION 8-41. – OBEDIENCE TO TRAFFIC MARKINGS.

(a) All vehicles operated on any street, highway or roadway within the town or any portion thereof which has been clearly marked with traffic lanes shall be operated within the lane designated by a straight arrow if no turn is to be made and if a right or left turn is to be made shall be operated within the lane marked by an arrow indicating a right or left turn.

(b) No vehicle shall make any turn at any intersection from any marked traffic lane unless an arrow in such lane indicates that such a turn may be made.

### SECTION 8-42. – BLOCKING INTERSECTIONS OR CROSSWALKS.

No driver of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

### SECTION 8-43. – DRIVING ON SIDEWALK AREA.

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

**State Law Reference—** Driving motor vehicle on sidewalk prohibited, G.S. § 20-160.

### SECTION 8-44. – DRIVING THROUGH A FUNERAL PROCESSION.

No vehicle shall be driven through a funeral procession, except fire department vehicles, police patrols and ambulances responding to calls.

### SECTION 8-45. – LIMITATION ON BACKING.

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

### SECTION 8-46. – DRIVING AN OVERCROWDED OR OVERLOADED VEHICLE.

No person shall operate upon a street or highway a motor vehicle which is so loaded or crowded with passengers or property or both as to obstruct the operator's view of the street or highway, including intersections, or so as to impair or otherwise restrict the proper operation of the vehicle.

**State Law Reference—** Similar provisions, G.S. § 20-140.2.

### SECTION 8-47. – VEHICLES LOADED WITH LOGS-LOGS TO BE FASTENED.

Every truck, trailer or other vehicle which shall be loaded with logs and which shall be driven upon the streets, alleys and other public ways of the town shall have such logs well and securely chained or fastened thereon.

### SECTION 8-48. –PARKING OF VEHICLES LOADED WITH LOGS.

It shall be unlawful for any person operating any truck, trailer or other vehicle which shall be loaded with logs to park or stand such vehicle upon any portion of any street in the Town’s business district.

### *SECTIONS 8-49 – SCHEDULE FOR TIME LIMITED PARKING.*

To support new and existing businesses in the downtown area, the Town shall provide for time limited parking as set out below. Violation of this section of the Code constitutes a traffic code violation enforced by the Town's Police Department.

(a) 2-Hour Parking (Between the hours of 8:00 am and 6:00 pm everyday)

- 3rd Avenue to 4th Avenue on either side of the Main Street. (8am until 6pm everyday)
- From 5th Avenue heading north to Chamber of Commerce building on Main Street.

(b) 15 Minute Parking (Between the hours of 8:00 am and 6:00 pm everyday)

- From Chamber of Commerce building heading north on S. Main Street to the alley between Town Hall & Brown's Hardware.
- S. Main Street from the alley between Town Hall and Brown's Hardware heading south to 5th Avenue.

### *SECTION 8-50. –RESERVED.*

## CHAPTER 3. –TRAFFIC CONTROL DEVICES

### *SECTION 8-51. – OBEDIENCE TO DEVICES.*

It shall be unlawful for any person to drive, operate or use a vehicle upon the streets of the town contrary to any signs, signals or other traffic-control devices that are placed upon the streets for the purpose of directing traffic, except upon direction of a police officer and except as otherwise provided in this chapter.

### *SECTION 8-52. – MOVING OR DAMAGING DEVICES.*

It shall be unlawful for any person to move, deface or otherwise damage any sign, signal or other traffic-control device placed upon the streets of the town.

### *SECTION 8-53. – RATIFICATION OF EXISTING DEVICES.*

All traffic-control signs, signals, devices and markings placed or erected in the town prior to the adoption of this Code and in use for the purpose of regulating, warning or guiding traffic are hereby affirmed, ratified and declared to be official traffic-control devices, provided such traffic-control devices are not inconsistent with the provisions of this chapter or state law.

### *SECTION 8-54. – TRAFFIC CONTROL SIGNAL LEGEND.*

Whenever traffic is controlled by traffic-control signals exhibiting the words "Go," "Caution" or "Stop" or exhibiting differently colored lights, successively, one (1) at a time, the following colors only shall be used, and such terms and lights shall indicate as follows:

(1) *Green alone or "Go."*

a. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn, but vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.

b. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) *Yellow alone or "Caution," when shown following the green or "Go" signal.*

a. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.

b. Pedestrians facing such signal are thereby advised that there is insufficient time to cross a roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) *Red alone or "Stop."*

a. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line and shall remain standing until green or "Go" is shown alone.

b. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(4) *Red with green arrow.*

a. Vehicular traffic facing such signal may cautiously enter the intersection, only to continue movement in the direction indicated by such arrow, but shall not interfere with other traffic.

b. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

## SECTION 8-55. – FLASHING SIGNALS.

Whenever flashing red or yellow signals are used, they shall require obedience by vehicular traffic as follows:

(a) *Flashing red (stop signal).* When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(c) *Flashing yellow (caution signal).* When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(d)

## SECTION 8-56. – STOP INTERSECTIONS.

When stop signs are placed, erected or installed upon streets intersecting a through street designated as provided in *Section 8-54* at the entrance thereto or at the entrance to any intersection or at any stop intersection so designated, every driver of a vehicle shall stop in obedience to such signs before entering the intersection and shall not proceed into or across such intersection until he has first determined that no conflict with traffic will be involved.

**State Law Reference—** Authority of town to designate stop intersections, G.S. § 20-158.

## SECTION 8-57. – YIELD INTERSECTIONS.

Whenever main-traveled or through streets are designated by erecting, at the entrance thereto from intersecting streets, signs notifying drivers of vehicles to yield the right-of-way to drivers of vehicles approaching the intersection on the main-traveled or through street, it shall be unlawful for the driver of any vehicle to enter or cross such main-traveled or through street, unless he shall first slow down and yield the right-of-way to any vehicle in movement on the main-traveled or through street which is approaching so as to arrive at the intersection at approximately the same time as the vehicle entering the main-traveled or through street. No failure to so yield the right-of-way shall be considered negligence or contributory negligence per se in any action at law for injury to person or property, but the facts relating to such failure to yield the right-of-way may be considered with the other facts in the case in determining whether either party in such action was guilty of negligence or contributory negligence.

**State Law Reference—** Similar provisions, G.S. § 20-158.1.

### SECTION 8-58. – DRIVING ON ONE-WAY STREETS.

Upon those streets and parts of streets designated as one-way streets vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

**State Law Reference—** Authority of town to prohibit other than one-way traffic, G.S. § 20-169.

### SECTION 8-59. – LIMITATIONS ON TURNING AROUND.

No driver shall turn any vehicle and proceed in the opposite direction within a business district, unless a sign indicating that the same may be done is erected.

### SECTION 8-60. – TRUCK ROUTES.

(a) No person may drive or operate any truck upon any street or highway within the town, other than state-maintained roads unless the point of origin or destination for such truck lies on such road or use of such non-state-maintained road is necessary to travel between a state-maintained road and a point of origin or destination of such truck.

(c) Pursuant to the traffic engineer, with approval of the Board of Commissioners, may designate certain sections of state-maintained highways and streets within the town as truck routes. The engineer shall request the state department of transportation to post and maintain appropriate signs designating such truck routes and directing all trucks to use the designated routes.

**State Law Reference—** Size, equipment of vehicles, G.S. § 20-116.

### SECTION 8-61. – DRIVING THROUGH SAFETY ZONES.

The driver of a vehicle shall not at any time drive through or over a safety zone marked, signed and designated.

**State Law Reference—** Similar provisions, G.S. § 20-160.

### SECTION 8-62. –DRIVING IN SCHOOLS ZONES.

Whenever authorized signs are placed designating any street or part thereof as a school zone drivers of vehicles using such street shall exercise the greatest care for the protection of children.

### SECTION 8-63. – DRIVING IN QUIET ZONES.

Whenever authorized signs are placed, erected or installed as a quiet zone, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle, except in an emergency.

### SECTION 8-64. – DRIVING ON PLAY STREETS.

Whenever authorized signs are placed designating any street or part thereof as a play street no person shall drive a vehicle upon any such designated street, except persons who have business or who reside within the designated area, and all such persons shall exercise the greatest care when driving upon any play street.

### SECTION 8-65. – TRUCKS IN RESIDENTIAL DISTRICTS.

No person shall park or leave standing any large truck on any street between the hours of 6:00 p.m. and 6:00 a.m. in a residential district as defined by the Red Springs Zoning Ordinance. For the purpose of this section, a large truck shall include a commercial motor vehicle, a property-hauling vehicle, a road tractor and a truck tractor as defined by G.S. § 20-4.01.
(Ord. 97-09, passed 3-4-97)

### SECTION 8-66. – PARKING ON PRIVATELY OWNED PROPERTY.

(a) *Regulations authorized.* Upon the written request of the owner or person in general charge of the operation and control of any parking areas or driveways of a privately owned hospital, shopping center, apartment house, condominium complex, commercial office complex, or other privately owned public vehicular area, as defined in G.S. § 20-4.01(32), the town may regulate or prohibit during specified hours the stopping, standing, or parking of motor vehicles.

(b) *Application.* The owner or person in general charge of the operation and control of the property must submit the request for regulation in writing, on application forms available from the Town Clerk.

(c) *Signs.*

i. The cost of erecting, placing or installing signs, and the cost of all necessary signs as determined by the Chief of Police, shall be paid by the person requesting regulations.

ii. All signs erected must be approved prior to placement, or the applicant may request that the town place the signs upon payment by the applicant of all costs.

(d) *Regulations adopted.* No person shall stop, leave standing, or park a motor vehicle in the areas specified in this section in violation of posted signs, when signs are placed, erected or installed giving notice that stopping, standing, or parking is regulated, prohibited, or prohibited during certain hours, in that space or area.

(e) *Penalty.* The provisions of this section shall be enforceable in the same manner as is used to enforce other parking regulations and ordinances, and penalties shall be the same as for the corresponding violations or publicly owned or controlled streets or property.

### SECTION 8-67. - 8-75. – RESERVED.

# CHAPTER 4. –SPEED REGULATIONS

## SECTION 8-76. – MAXIMUM LIMITS GENERALLY.

(a) No person shall drive a vehicle on a street or highway within the town at a speed greater than is reasonable and prudent under the conditions then existing.

(b) Except as otherwise provided in this chapter, it shall be unlawful to operate a vehicle in excess of the following speeds:

(1) Twenty (20) miles per hour in any business district;

(2) Twenty-five (25) miles per hour in any residential district;

(3) Forty-five (45) miles per hour in places other than those named in paragraphs (1) and (2) of this subsection for:

a. All vehicles other than passenger cars, regular passenger vehicles, pickup trucks of less than one (1) ton capacity and school buses loaded with children; and

b. All vehicles of whatever kind which are engaged in towing, drawing or pushing another vehicle, provided this subparagraph shall not apply to vehicles engaged in towing, drawing or pushing trailers with a gross weight of not more than three thousand (3,000) pounds;

(4) Fifty-five (55) miles per hour in places other than those named in paragraphs (1) and (2) of this subsection for passenger cars, regular passenger-carrying vehicles and pickup trucks of less than one (1) ton capacity.

(c) The fact that the speed of a vehicle is lower than the limits provided in this section shall not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway or when special hazards exist with respect to pedestrians or other traffic or by reasons of weather or street conditions. Speed shall be decreased as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the street or highway and to avoid causing injury to any person or property, either on or off the street or highway, in compliance with legal requirements and the duty of all persons to use due care.

**State Law Reference—** Similar provisions, G.S. § 20-141.

## SECTION 8-77. – VARIATION OF MAXIMUM LIMITS.

The Board of Commissioners may alter the maximum speed limits as established on any street or portion thereof which is not a part of the state highway system and which is not maintained by the state highway commission in accordance with the provisions of G.S. section 20-141(e); provided, however, that no such alteration shall be less than twenty-five (25) miles per hour. No such alteration of the speed limits shall become or remain effective unless signs have been conspicuously placed giving notice of such speed limit for such street.

## SECTION 8-78. – SCHOOL ZONES.

(a) It shall be unlawful for any person to operate or drive any vehicle at a speed greater than twenty-five (25) miles per hour in any school zone during a period of time of thirty (30) minutes prior to and thirty (30) minutes following the times when such school begins and ends its daily schedule.

(b) For the purposes of this section, a school zone shall be deemed to be that portion of any street abutting any school property for a distance not to exceed five hundred (500) feet on either side of such school property.

**State Law Reference—** Speed in school zones, G.S. § 20-141.1.

## *SECTION 8-79. – REGULATION OF CERTAIN SPEED ZONES.*

(a) 20 MPH. It shall be unlawful to operate a vehicle at a speed in excess of 20 miles per hour upon the following streets:

| STREET | BETWEEN | ORD. NO. |
|---|---|---|
| Fourth Ave. | A point approximately 150 feet west of Vance St. eastward and a point approximately 350 feet west of College St. | 4-7-64 |
| Main St. | From Fifth Ave. to Fourth Ave. (NC 211), thence along Main St. (NC 211) to Third Ave. (NC 71), thence along Main St. (NC 71 and 211) to a point approximately 225 feet north of Second Ave. (SR 1324) | 4-7-64 |
| Third Ave. (NC 71) | Main St. (NC 211) and Vance St. | 4-7-64 |

('70 Code, 2009 S-5 Supplement, § 13-29)

(b) School speed zone, 25 MPH.

(1) It shall be unlawful to exceed 25 miles per hour in any school zone.

(2) A school speed zone will be observed between the hours of 7:30 a.m. to 8:30 a.m. and 2:30 p.m. to 3:30 p.m. at the schools in division (B) (1) above.

(G.S. § 20-141.1) ('70 Code, 2009 S-5 Supplement, § 13-30) (Ord. passed 1-7-64)

(c) 35 MPH. It shall be unlawful to operate a vehicle at a speed in excess of 35 miles per hour on the following streets:

| STREET | BETWEEN | ORD. NO. |
|---|---|---|
| Fourth Ave. (NC 211) | A point approximately 350 feet west of College St. and to the eastern corporate limit | 4-7-64 |
| Fourth Ave. (SR 1331) | Western corporate limit and a point approximately 150 feet west of Vance St. | 4-7-64 |
| Main St. (NC 72) | Southern corporate limit and Fifth Ave. | 4-7-64 |
| Main St. (NC 71-211) | A point approximately 225 feet north of Second Ave. (SR 1324) northward and the corporate limit | 4-7-64 |
| McLeod Rd. (SR 1500) | Fourth Ave. (NC 211) and the southern corporate limit | 4-7-64 |
| Peterson St. (SR 1334) | Phillips Ave. (SR 1332) and the western corporate limit | 4-7-64 |
| Phillips Ave. (SR 1332) | Fourth Ave. (SR 1331) and the southern corporate limit | 4-7-64 |
| Second Ave. (SR 1324) | Western corporate limit and Main St. (NC 71-211) | 4-7-64 |
| Shannon Rd. (SR 1780) | Main St. (NC 71-211) northeastward and a point approximately 850 feet northeast of College St. | 4-7-64 |
| State Route 1781 | State Route 1785 and the northern corporate limit | 4-7-64 |
| Third Ave. (NC 71) | Western corporate limit and Vance St. | 4-7-64 |
| Vance St. (SR 1325) | Third Ave. (SR 1324) and the northern corporate limit | 4-7-64 |

(G.S. § 20-141(e)-(g)) ('70 Code, 2009 S-5 Supplement, § 13-31)

### *SECTION 8-80. – EXEMPTIONS.*

The speed limitations set forth in this article shall not apply to vehicles when operated with due regard for safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, to fire department or fire patrol vehicles when traveling in response to a fire alarm, to public or private ambulances when traveling in emergencies nor to vehicles operated by the duly authorized officers, agents and employees of the North Carolina Utilities Commission when traveling in performance of their duties in regulating and checking the traffic and speed of buses, trucks, motor vehicles and motor vehicle carriers subject to the regulations and jurisdiction of the North Carolina Utilities Commission. This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.

**State Law Reference—** Similar provisions, G.S. § 20-145.

### *SECTIONS 8-81. – 8-85. – RESERVED.*

## CHAPTER 5. –PEDESTRIANS

### SECTION 8-86. – APPLICABILITY.

Pedestrians shall be subject to traffic-control signals at intersections, as provided in this chapter, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this article.

**State Law Reference—** Similar provisions, G.S. § 20-172.

### SECTION 8-87. – RIGHT-OF-WAY AT CROSSWALKS.

(a) Where traffic-control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this article.

(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

**State Law Reference—** Similar provisions, G.S. § 20-173.

### SECTION 8-88. – CROSSING AT OTHER THAN A CROSSWALK.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

**State Law Reference—** Similar provisions, G.S. § 20-174.

### SECTION 8-89. – SOLICITING RIDES.

No person shall stand in the traveled portion of a street or highway for the purpose of soliciting a ride from the driver of any private vehicle.

**State Law Reference—** Similar provisions, G.S. § 20-175.

### SECTION 8-90. – BLIND PEDESTRIANS.

(a) At any street, road or highway crossing or intersection where the movement of traffic is not regulated by a traffic officer or by traffic-control signals, any blind or partially blind pedestrian shall be entitled to the right-of-way at such crossing or intersection if such blind or partially blind pedestrian shall extend before him, at arm's length, a cane white in color or white tipped with red or if such person is accompanied by a guide dog. Upon receiving such a signal, all vehicles at or approaching such intersection or crossing shall come to a full stop, leaving a clear lane through which such pedestrian may pass, and such vehicle shall remain stationary until such blind or partially blind pedestrian has completed the passage of such crossing or intersection. At any street, road or highway crossing or intersection where the movement of traffic is regulated by traffic-control signals, a blind or partially blind pedestrian shall be entitled to the right-of-way if such person having such cane or accompanied by a guide dog shall be partly across such crossing or intersection at the time the traffic-control signals

change, and all vehicles shall stop and remain stationary until such pedestrian has completed passage across the intersection or crossing.

(b) Nothing contained in this section shall be construed to deprive any blind or partially blind person not carrying a cane white in color or white tipped with red or being accompanied by a guide dog of any of the rights and privileges conferred by law upon pedestrians crossing streets and highways, nor shall the failure of such blind or partially blind person to carry a cane white in color or white tipped with red or to be accompanied by a guide dog upon the streets, roads, highways or sidewalks be held to constitute or be evidence of contributory negligence by virtue of this section.

**State Law Reference—** Similar provisions, G.S. §§ 20-175.2, 20-175.3.

### *SECTION 8-91. – DUTY OF DRIVERS.*

Notwithstanding the provisions of this article, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precautions upon observing any child or any confused or incapacitated person upon a roadway.

**State Law Reference—** Similar provisions, G.S. § 20-174.

### *SECTION 8-92. – 8.95. – RESERVED.*

## CHAPTER 6. –BICYCLES

### *SECTION 8-96. – APPLICABILITY OF TRAFFIC REGULATIONS.*

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

(b) The operator of a motorcycle or bicycle, when upon a street, shall not carry any person upon the handlebars, frame, or tank of such motorcycle or bicycle, nor shall any person so ride upon such motorcycle or bicycle.

(c) No operator of a motorcycle or bicycle shall ride thereon on any street without having his hands upon the handlebars thereof.

('70 Code, 2009 S-5 Supplement, § 13-3) (Ord. passed 8-23-48)

**State Law Reference—** *North Carolina Bicycle and Bikeway Act of 1974, G.S. § 136-71.6 et seq.*

### *SECTION 8-97. – IMPOUNDMENT FOR VIOLATION.*

Any bicycle operated by the owner or other person lawfully in the custody thereof in violation of any of the provisions of this article may be taken into custody and impounded for a period of not exceeding thirty (30) days.

### *SECTION 8-98. – USE AFTER DARK.*

It shall be unlawful for any person to operate a bicycle after dark on any street, alley or highway of the town unless the bicycle is equipped with a lighted lamp on the front thereof, visible under normal atmospheric conditions from a distance of at least three hundred (300) feet in front of such bicycle and equipped with a reflex mirror or lamp on the

rear exhibiting a red light visible under like conditions from a distance of at least two hundred (200) feet to the rear of such bicycle.

**State Law Reference—** Lights and lighting equipment, G.S. § 20-129(e).

### SECTION 8-99. – 8-100. – RESERVED.

## CHAPTER 7. –RAILROADS

### SECTION 8-101. – SPEED LIMIT.

It shall be unlawful for any railroad engine, motor car, handcar, coach, train or other similar railway equipment to be operated within the town at a rate of speed greater than twenty (20) miles per hour.

**State Law Reference—** Regulating speed of trains, G.S. § 160A-195.

### SECTION 8-102. – OBSTRUCTION OF CROSSINGS.

It shall be unlawful for any railroad company or any employee or agent thereof to obstruct or cause to be obstructed, in any manner whatsoever, any street, alley or other public way within the town by means of any locomotive, car, train or otherwise for a period of time in excess of fifteen (15) minutes; provided, however, that if any railroad engine, motor car, handcar, coach, train or other similar railroad equipment shall come to a full or complete stop, it shall be unlawful for such equipment to obstruct any such street, alley or other public way for a period of time in excess of five (5) minutes.

### SECTION 8-103. – WARNING DEVICES AT CROSSINGS.

Every railroad company which has railroad tracks that run through the town or any portion thereof shall be required to erect, place or construct such barricades or other warning devices as shall be required by the Board of Commissioners at all crossings of such tracks with the streets, alleys or other public ways within the town. Upon notice by registered mail, return receipt requested, from the town to any such railroad company directing such railroad company to so erect, place or construct such warning device, it shall be unlawful for such railroad company to fail to do so within sixty (60) days after receipt of such notice.

**State Law Reference—** Railroad crossings, G.S. § 160A-298.

### SECTION 8-104. – STOPPING FOR SIGNAL.

Whenever any person driving a vehicle approaches a railroad track crossing any street, alley or other public way in the town and a clearly visible and positive signal gives warning of the immediate approach of a railroad train, car or other similar equipment, it shall be unlawful for the driver of the vehicle to fail to bring the vehicle to a complete stop before traversing such grade crossing.

**State Law Reference—** Vehicles must stop at certain railway crossings, G.S. § 20-143.

### SECTION 8-105. – WARNING WHEN APPROACHING A CROSSING.

Every railroad company shall cause each locomotive engine run by it in the town to be provided with a bell and a whistle and/or horn meeting the requirements of state law and shall cause the bell to be rung or the whistle or horn to be blown at the distance of at least three hundred (300) yards from the place where the railroad crosses over any street, and the bell shall be kept ringing continuously or the whistle or horn shall be kept blowing at repeated intervals until the crossing is passed.

### SECTION 8-106. – LIGHTING YARDS; CROSSINGS.

All railroad companies operating trains within or through the Town shall establish or cause to be established suitable lights in their yards and at all public grade crossings. Such lights shall be of sufficient intensity to render any person or vehicle on the yards or crossings clearly visible.

### SECTION 8-107. – HEADLIGHTS AND SIGNAL BELLS.

No railroad engine or train or streetcar of any character or description whatsoever shall be run or moved in the nighttime without a headlight, nor shall such engine, train or streetcar be run at any time without the usual signal bells.

### SECTION 8-108. – FLYING SWITCH PROHIBITED.

It shall be unlawful for any railroad company or person to switch a railroad car in the manner commonly known as a "flying," "running," "walking," or "kicking" switch within the town.

### SECTION 8-109. – 8-110. – RESERVED.

# TITLE 9. – OCCUPATIONAL LICENSES, TAXES AND REGULATION

## CHAPTER 1. – GENERAL

### SECTION 9-1. – PRIVILEGE LICENSE TAX REPEALED.

State Law G.S. 160A-211 has been repealed by the North Carolina General Assembly for taxable years beginning on or after July 1, 2015.

### SECTION 9-2. – 9-5 - RESERVED.

## CHAPTER 2. – AD VALOREM TAX

### SECTION 9-6. – ANNUAL DETERMINATION.

The ad valorem tax rate shall be set and taxed as provided by state law.

***State Law Reference—*** General power to impose taxes, G.S. § 160A-206.

### SECTIONS 9-7 – 9-10. . – RESERVED.

# TITLE 10. – PARKS AND RECREATION

## CHAPTER 1. – RECREATION COMMISSION

### SECTION 10-1. – PURPOSE AND ESTABLISHMENT

The Board of Commissioners hereby determines that it is for the best interest of the recreational system of the town that such system be supervised and directed by a Recreation Commission. Therefore, there is created a commission to be known as the Recreation Commission of Red Springs, which shall be referred to throughout this code as the Recreation Commission.

('70 Code, 2009 S-5 Supplement, § 2-52) (Ord. passed 5-2-50)

### SECTION 10-2. – COMPOSITION; APPOINTMENT, TERM, AND COMPENSATION OF MEMBERS; VACANCIES

(a) The Recreation Commission shall be composed of seven members to be appointed by the Board of Commissioners.

(b) Members shall be citizens of the town, except that two members may be citizens of the county, residing in the area within the Red Springs Schools attendance boundary.

(c) Members shall serve for a term of four years until their successors are appointed and qualified.
   1. They shall take office on July 1, in the year of their appointment.
   2. They shall be appointed for staggered terms as follows:
   3. In June 1993, and each four years thereafter, four members shall be appointed;
   4. In June 1995, and each four years thereafter, three members shall be appointed.

(d) Vacancies in the Recreation Commission shall be filled for the unexpired term by the Board of Commissioners.

(e) The members of the Recreation Commission shall serve without compensation.

('70 Code, 2009 S-5 Supplement, § 2-53) (Ord. passed 5-2-50; Am. Ord. 16A, passed 11-3-92)

### SECTION 10-3. – OFFICERS; BYLAWS; RULES AND REGULATIONS; MEETINGS

The Recreation Commission shall appoint from its membership a chairman and such other officers as it may deem necessary for the orderly procedure of its business and may adopt bylaws, rules, and regulations covering its procedure not inconsistent with the provisions of this code, the town Charter, and state law. The Recreation Commission shall, from time to time, make rules and regulations governing the operation and conduct of the recreational facilities operated by the Recreation Commission. The Recreation Commission shall hold regular meetings at such times and places as it may designate.
('70 Code, 2009 S-5 Supplement, § 2-53) (Ord. passed 5-2-50)

### SECTION 10-4. – POWERS AND DUTIES

The Recreation Commission shall provide, maintain, operate, and supervise the public parks and playgrounds, athletic fields, recreation centers, and other recreational facilities owned or controlled by the town leased or loaned to the Recreation Commission by the owners thereof. The Recreation Commission shall have complete supervision of the facilities and activities provided and conducted on or in connection with the parks, playgrounds, athletic fields, and recreation centers provided, and shall have the power to conduct any form of recreational or cultural activity.
('70 Code, 2009 S-5 Supplement, § 2-55)

### SECTION 10-5. – ACCEPTANCE AND USE OF GRANTS, BEQUESTS, ETC.; LIMITATION ON AUTHORITY TO MAKE CONTRACTS AND TO INCUR DEBT

The Recreation Commission may accept any grant, gift, bequest, or donation of any personal property offered or made for recreational purposes and, with the approval of the Board of Commissioners, may accept any grant, gift, or devise of real estate. Any gift, bequest of money, or other personal property, grant, or devise of real estate shall be held, used and finally disposed of in accordance with the terms or conditions under which such grant, gift, or devise is made and accepted. The Recreation Commission shall have no authority to enter into any contract or incur any obligation binding upon the town other than current obligations or contracts to be fully executed within the then current fiscal year and all within the budget appropriations made by the Board of Commissioners.
('70 Code, 2009 S-5 Supplement, § 2-56) (Ord. passed 5-2-50)

### SECTION 10-6. – DIRECTOR OF RECREATION; OTHER PERSONNEL

The Recreation Commission shall have power to appoint a Director of Recreation. The person so appointed shall possess the necessary foundation training and shall demonstrate by actual work his or her ability to organize and direct a community recreation system. Such other trained persons as may be necessary in the maintenance and operation of the recreation facilities and system may be employed by the Recreation Commission.
('70 Code, 2009 S-5 Supplement, § 2-57) (Ord. passed 5-2-50)

### SECTION 10-7. – FUNDS

Funds appropriated by the governing body of the town and budgeted to the Recreation Commission shall be disbursed by the fiscal disbursing officer of the town upon vouchers issued by the Recreation Commission and within the budget appropriations made. Funds received by the Recreation Commission from sources other than budget appropriations shall be deposited by the town to the credit and for the use of the commission and disbursed, except that funds received by gift, bequest, or otherwise shall be disbursed in accordance with the terms of such gift or bequest.
('70 Code, 2009 S-5 Supplement, § 2-58) (Ord. passed 5-2-50)

### SECTION 10-8. – REPORTS; FISCAL YEAR

The Recreation Commission shall make full and complete reports to the Board of Commissioners at such times as may be requested and at such other times as to the Recreation Commission may seem proper. The fiscal year of the Recreation Commission shall conform to that of the town.
('70 Code, 2009 S-5 Supplement, § 2-59) (Ord. passed 5-2-50)

### SECTIONS 10-9. – 10-10. – RESERVED

## CHAPTER 2. - GENERAL PROVISIONS

### SECTION 10-11. – COMPLIANCE WITH REGULATIONS; ENFORCEMENT

All persons entering or using any park, playground, tennis court, recreation or community area or center, swimming pool or facility (collectively "park") owned or operated by the town shall be obedient to the rules and regulations governing the use of such park. All such rules and regulations and other provisions of this chapter pertaining to a park shall be enforced in the same manner that other ordinances of the town may be enforced.

### SECTION 10-12. – OPENING AND CLOSING OF TOWN PARKS; REMAINING IN PARKS AFTER CLOSURE; FORFEITURE OF RIGHT TO USE PARK

(a) Town parks and open spaces shall be open to the public daily during the times specified by the Board of Commissioners. These times may be extended to accommodate programs offered by the Town.

(b) The Town may close one or more parks or recreational facilities temporarily at any time if a sufficient reason exists on account of severe weather or other emergency that would endanger persons using these facilities.

(c) It shall be unlawful to enter into or remain within any public park owned or operated by the Town within the hours they are closed to public use and a sign to that effect is posted prominently at the main entrance to same.

(d) Any person who is drunk or disorderly or is or becomes disruptive to other persons using public parks, public greenways, or other public recreational areas shall have no right to the use of the park. Failure to leave when instructed to do so by a Town official or his designee, or a law enforcement officer shall be a misdemeanor.

(e) In addition to any other enforcement remedies provided by law, violators of subsections (b) or (c) are subject to criminal penalties for trespass.

### SECTION 10-13. – RULES AND REGULATIONS; ILLEGAL ACTS

(a) No person shall willfully mark, deface, disfigure, damage, tamper with or without the authorization of the town, displace or move any structure, equipment, facility, or any other real or personal property that is the property of or under the control of the town.

(b) No person shall willfully damage, cut, carve, transplant or remove any tree, shrub, bush or plant within any park except in maintenance or other activity under the direction of the town.

(c) No person shall drive, park or ride any motorized vehicle in any public park or on any public greenway except in areas so marked, signed or designated for motorized vehicular traffic, except in maintenance or other activity under the direction of the town.

(d) No person shall dump, deposit, leave or place trash, garbage, ashes, wastes, broken glass or other rubbish within any park, except in garbage, trash recycling or other proper receptacles provided for the purpose. No person shall dispose of garbage or rubbish within any park.

(e) No person shall camp or stay overnight in any park, except with written permission from the town.

(f) Except for authorized personnel or law enforcement personnel, no person shall enter any park or remain in any park during the hours the park is closed to the public.

(g) Dogs are allowed within the public parks, subject to the provisions of the town's animal control regulations, except in those areas specifically marked and designated that no dogs shall be allowed.

(h) No person shall solicit, peddle or beg or conduct private fundraising activities within any public park or on any public greenway, or sell, merchandise, wares, or distribute any product samples, informational literature of any type therein. This subsection shall not apply to:

    (1) Any concession franchise granted by the parks and recreation and cultural resources department for a park; or

(2) Any solicitation or sale of goods by nonprofit or civic groups, provided that written permission is obtained in advance from the town. Such groups must provide proof of their approved 501-C3 nonprofit designation and must provide insurance, Hold Harmless, and other documentation as required by the town. No such permission shall be issued to any group more than once during a 12-month period.

(i) No person shall use, consume or possess any alcoholic beverages, beer or wine within the park; no person shall use, consume or possess any narcotic drug or hallucinogen or any other controlled substance within any park without a valid physician's prescription for the substance.

(j) All persons in any park shall obey all posted traffic regulations, signs and directions.

(j) No person shall engage, either verbally or physically, in any loud, disruptive or offensive conduct, or engage in any activity or sport in a manner which threatens the safety or welfare of other patrons of the park, or which unreasonably impairs the public's opportunity to use and enjoy the park.

(k) Participants in organized league sports shall obey the special rules and regulations relating to such activities in the park as prescribed by the town.

(l) No person other than town personnel acting within the scope of their employment shall place, maintain or erect any sign, poster, notice or advertising device within any park.

(m) The following activities shall be prohibited on all athletic fields, athletic courts, and playgrounds within public parks: the hitting of golf balls, the riding of bicycles, the use of motorized vehicles except those being used for emergency and maintenance purposes; and the exercising of pets and animals.

(n) The maximum motorized vehicular speed allowed within any public park shall be 15 miles per hour, except that all users are expected to travel at lesser speeds where commensurate with existing conditions.

(o) Open fires are prohibited within all public parks. Use of privately owned "pig cookers" and portable gas grills is permitted, provided that, such use of pig cookers and portable gas grills is limited to concrete or asphalt surfaces such as parking lots and shall be located a minimum distance of 15 feet from park shelters other and structures.

(p) No person shall engage in any sport or recreational activity or an area designated for vehicle operation or parking.

(q) No person shall engage in a sport or recreational activity in an area in which doing so endangers other park patrons and their pets and park wildlife, this may include, but is not limited to, driving golf balls, batting baseballs, throwing balls, throwing Frisbees, and throwing objects for animals to fetch.

(r) No person shall set off fireworks within any public park or on any public greenway.

(s) Any law enforcement officer may issue a citation for a civil penalty for any violation of this Section in the amount of $100.00. This authority shall be in addition to any other authority under this Code or North Carolina law, and shall not preclude in any way any law enforcement officer from exercising any authority or carrying out the duties of a law enforcement officer. Enforcement of any unpaid citation may be by issuance of a criminal summons, by the filing of a civil complaint to collect the unpaid debt owed to the town, and/or by any other means authorized by law.

## *SECTION 10-14. – CRIMINAL HISTORY RECORDS CHECK*

(a) The town is authorized to obtain criminal history records for applicants to be volunteers for the department. The town shall obtain such information through the Robeson County Sheriff's Department which shall access such police information from the State of North Carolina Criminal History repository through SBI/DCI or through the use of private contractors.

(b) Each applicant for a volunteer position with the town shall provide it with his or her full legal name, address, and telephone number. Each applicant shall display to the town a valid North Carolina driver's license (or some other form of equally reliable picture identification) as a means of identification. Each applicant shall sign a written consent for the town to obtain a State of North Carolina criminal history check through DCI/SBI or through a private contractor.

(c) In the event that the criminal history records show the conviction of any felony or show the conviction of any misdemeanor involving violence, potential violence, sexual crime, or moral turpitude, then the applicant shall be denied volunteer status.

***SECTIONS 10-15. – 10-20. – RESERVED.***

# TITLE 11. – PLANNING AND ZONING

## CHAPTER 1 – GENERAL

### SECTION 11-1. – PURPOSE

This Ordinance is designed to guide the growth of the various land uses of the Town and to encourage the future development of the Town in accordance with a land development plan so that the Town may realize its best potentialities as a place in which to live and work.

('78 Zoning Code, Art. 1, Section 2.)

### SECTION 11-2. – AUTHORITY

This Ordinance is adopted pursuant to the authority vested in the Town of Red Springs by its charter and the General Statutes of North Carolina, particularly Chapter 160A, Article 19, Part 3.

('78 Zoning Code, Art. 1, Section 4.)

### SECTION 11-3. – JURISDICTION

The provisions of this Ordinance shall apply within the corporate limits of the Town of Red Springs, North Carolina, and within the area of extraterritorial jurisdiction as now or hereafter defined, in accordance with the authority granted to North Carolina Municipalities by Article 19, Chapter 160A of the North Carolina General Statutes as shown on the Zoning Map on file with the Clerk of the Town of Red Springs, North Carolina.

('78 Zoning Code, Art. 1, Section 3.)

### SECTION 11-4. – FEES

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as set forth in the town's budget or as established by resolution of the Board of Commissioners filed in the office of the Town Clerk.

Fees shall be paid upon submission of a signed application or notice of appeal.

### SECTION 11-5. – MINIMUM REGULATIONS

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with, abrogate, or annul easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

### SECTION 11-6. - VALIDITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid by the courts, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Commissioners

hereby declares that it has passed this Ordinance and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

### SECTION 11-7. - EFFECTIVE DATE

This Ordinance and its provisions governing the use of land and buildings, the height of buildings, and other matters as hereinafter set forth are hereby established and declared to be in full force and effect from and after its passage and any Zoning Ordinance previously adopted is hereby repealed.

### SECTION 11-8. – 11-10. - RESERVED

## CHAPTER 2 – OFFICIAL ZONING MAP AND ZONING DISTRICTS

### SECTION 11-11. – ZONING MAP

For the purposes of this Ordinance, the Town of Red Springs is hereby divided into several zoning districts the locations and boundaries of which are shown on the **Official Zoning Map for the Town of Red Springs** which is hereby adopted by reference and declared to be a part of this Ordinance.

This Zoning Map and all the notations, references, and all amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described and set out herein. The Zoning Map properly attested is on file in the Municipal Building and is available for inspection by the public.

The Zoning Enforcement Officer or his/her representative shall be responsible for the maintenance and revision of the Official Zoning Map. Upon notification by the Board of Commissioners that a zoning change has been made, the Zoning Enforcement Officer shall make the necessary changes on the Official Zoning Map within seven (7) calendar days of notification.

('78 Zoning Code, Art. IV, Section 3.)

### SECTION 11-12. – ZONING DISTRICTS

In order that the purpose of this Ordinance may be accomplished, the zoning districts are hereby established within the zoning jurisdictional area and are hereby given the following designations:

| | | | | | |
|---|---|---|---|---|---|
| OS | Open Space District | AR | Agricultural Residence | R | Residence |
| R-MH | Residential Mobile Home | R-1 | Mobile Home | RMF | Res. Multi-Family |
| CB | Central Business | GB | General Business | GB-1 | General Business |
| O&P | Office and Professional | I | Industry | | |

### SECTION 11-13. – INTERPRETATION OF ZONING DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules shall apply:

a) Unless otherwise specifically indicated, where district boundaries are shown on the Zoning Map as approximately parallel or following the center lines of streets, highways, railroad rights-of-way, utility

easements, or stream beds, or such lines extended, then such lines shall be construed to be such district boundaries.

b) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.

c) Where a district boundary line divides a lot in single ownership, the requirements for the district in which the greater portion of the lot lies shall be extended to the balance of the lot, provided that such extension shall not include any part of such lot which lies more than fifty (50) feet beyond the district boundary, and further provided that the remaining parcel shall not be less than the minimum required for the district in which it is located.

d) Where any public street or alley is hereafter officially vacated or abandoned, the regulations applicable to parcels of abutting property shall apply to that portion of such street or alley thereto by virtue of such vacation or abandonment.

e) The Board of Adjustment shall be empowered to interpret the intent of the Zoning Map as to the location of district boundaries in case any further uncertainty exists.

('78 Zoning Code, Art. II, Section 3.)

### SECTION 11-14. – 11.20. – RESERVED

## CHAPTER 3 –APPLICATION AND ENFORCEMENT

### SECTION 11-21. - APPLICATION

No building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this Ordinance.

### SECTION 11-22. - ADMINISTRATIVE OFFICIAL/ZONING ENFORCEMENT OFFICER

The Board of Commissioners shall appoint an Administrative Official/Zoning Enforcement Officer to enforce the provisions of this Ordinance. The assistance of such other persons may be provided as the Town Board of Commissioners may direct. The ordinance shall be enforceable in accordance with provisions available in the General Statutes of North Carolina Chapter 160A, Section 175.

All questions arising in connection with the enforcement or interpretation of this Ordinance, except as otherwise expressly provided for, shall first be presented to the Administrative Official. The decision of the Administrative Official may be appealed to the Board of Adjustment. From the decision of the Board of Adjustment, recourse shall be to appeal the decision to the courts as provided by law.

If the Administrative Official shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person(s) responsible for such violation indicating the nature of the violation and ordering the action necessary to correct it. He/She shall:

(a) order the discontinuance of illegal use of land, buildings, or structures;
(b) order removal of illegal buildings or structures, or of additions, alterations, or structural changes thereto;
(c) order discontinuance of any illegal work being done; or
(d) take any other action authorized by law to insure compliance with or to prevent violation of the provisions of this Ordinance.

('78 Zoning Code, Art. XI, Section 1.)

## SECTION 11-23. - ZONING PERMIT AND BUILDING PERMIT REQUIRED

After the adoption of this Ordinance it shall be unlawful to establish, move, or alter any use other than bona-fide farms unless a zoning and building permit are applied for and issued by the Administrative Official.

A temporary building permit may be issued by the Administrative Official for a period not exceeding 90 days during alterations or partial occupancy of a building pending its completion or for bazaars, carnivals, or religious revival provided that such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public.

The Administrative Official shall maintain a record of all building permits and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land involved.

## SECTION 11-24. – APPLICATION PROCESS: ZONING PERMIT

Each application for a Zoning Permit shall be accompanied by two (2) sets of plans drawn to scale. One (1) of the plans shall be returned to the applicant upon approval of the zoning permit. The other plan set will be retained with the Town's copy of the Zoning Permit. The plan shall show the following:

(a) The shape and dimensions of the lot on which the proposed building or uses to be erected or conducted;

(b) The location of said lot with respect to adjacent rights-of- way;

(c) The shape, dimensions, and location of all buildings, existing and proposed, on the said lot;

(d) The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;

(e) The location and dimensions of off-street parking and loading space and the means of ingress and egress to such space; and

(f) Any other information which the Zoning Enforcement Officer may deem necessary for consideration in enforcing the provisions of this Ordinance.

A fee, set by the Board of Commissioners, shall be charged for the processing of such application. The adopted fee schedule shall be posted in the Town Clerk's Office.

## SECTION 11-25. – APPLICATION PROCESS/FEES/EXPIRATION OF BUILDING PERMITS

All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the following information:

(a) The shape and dimensions of the lot to be built upon;

(b) The exact sizes and locations, on the lot, of buildings already existing, if any, and the location and dimensions of the proposed building or alteration;
(c) The location and dimensions of off-street parking and loading space and the means of ingress and egress to such space; and
(d) Such other information as may be required by the Administrative Official to determine conformance with, and provide for the enforcement of this Ordinance.

One copy of the plans shall be returned to the applicant by the Administrative Official after he shall have marked such copy either as approved or disapproved and attested to same by his signature to such copy. The second copy of the plans, similarly marked, shall be retained by the Administrative Official.

The Town Board shall set a fee, payable to the Town of Red Springs, North Carolina, to cover the necessary processing cost of all permits. The set fee shall be posted in the Administrative Official's office.

If the work described in any building permit has not begun within 6 months from the date of issuance thereof, said permit shall expire.

If after commencement, the work is discontinued for any period of 12 months, the permit shall immediately expire and further work as described in the expired permit shall not proceed unless and until a new building permit has been obtained.

Building permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance.

## SECTION 11-26. – TEMPORARY PERMIT

The Administrative Official may issue a temporary permit for commercial rides, carnivals, religious revivals, construction offices, and the placement of manufactured housing as a second dwelling for the temporary care of elderly parents and/or the terminally ill (only permissible in zoning districts that allow for manufactured housing). Such certificate shall be issued for a fixed period of time, not to exceed ninety (90) days, shall be subject to such limitations as the Zoning Enforcement Officer may impose to protect the character of the district affected, and may be considered for reapplication.

## SECTION 11-27. – RIGHT OF APPEAL

If the Zoning permit is denied, the applicant may appeal the action of the Zoning Enforcement Officer to the Board of Adjustment; and that from the decision of the Board of Adjustment, recourse shall be had to courts as provided by law. It is further the intention of this Ordinance that the duties of the Board of Commissioners in connection with the Ordinance shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof, but that the procedure for determining such questions shall be as herein set out in the Ordinance, and that the duties of the Board of Commissioners in connection with this Ordinance shall be only the duty of considering and passing upon any proposed amendment or repeal of the Ordinance as provided by law.

## SECTION 11-28. – PENALTY

The penalties for violation of this Zoning Code are as follows:

a) ***Criminal Penalties***. Any person, firm, or corporation who violates the provisions of this Ordinance shall upon conviction be guilty of a misdemeanor and shall be fined not exceeding fifty ($50) dollars and/or imprisoned not exceeding thirty (30) days. Each day of violation shall be considered a separate and distinct offense.

b) ***Civil Penalties.*** If a building or structure is erected, constructed, reconstructed, or altered, repaired, converted, or maintained, or any building, structure or land is occupied or used in violation of the General Statutes of North Carolina, this ordinance, or other regulation made under authority conferred thereby, the Town of Red Springs may apply to the District Court, Civil Division, or any other court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the case. An order of abatement may direct that buildings or other structures on the property be closed, and demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement.

c) ***Equitable Relief.*** The Town of Red Springs may apply to the District Court, Civil Division or other court of competent jurisdiction for an appropriate equitable remedy. It shall not be a defense to the Town's application for equitable relief that there is an adequate remedy at law.

d) ***Combination of Remedies***. The Town may choose to enforce this ordinance by any one, all, or combination of the above procedures.

## SECTION 11-29. – REMEDIES

In any case any building is created, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this Ordinance, the Zoning Enforcement Officer, or any other appropriate Town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation.

## SECTION 11-30. – COMPLAINTS REGARDING VIOLATIONS

When a violation of this Ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the cause and basis thereof and shall be filed with the Zoning Enforcement Officer. He shall record properly such complaint, investigate within ten (10) days, and take action thereon as provided in these regulations.

## SECTION 11-31. – REVOKING OF PERMITS

A zoning sign, conditional use or occupancy permit may be revoked by the permit-issuing authority if the permit recipient fails to develop and maintain the property in accordance with the plans submitted, the requirements of this

ordinance, or any other requirements lawfully imposed by the permit issuer. . When the permit is revoked any further work upon the demolition, construction, alteration, or repair on said building, structure or sign, or further use of said building, structure, sign or land shall be deemed a violation. Each and every day such unlawful demolition, construction, alteration or repair on said building or structure, or further use of said building or structure or land continues shall be deemed a separate offense.

### SECTION 11-32. – CERTIFICATE OF OCCUPANCY

No land shall be used or occupied, except for agricultural purposes, and no building hereafter structurally altered, erected, or moved shall be used or occupied until a certificate of occupancy shall have been issued by the Zoning Enforcement Officer stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance and any other appropriate regulatory codes. A like certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. A certificate of occupancy, either for the whole or part of a building, shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alterations of such building, or part, shall have been completed in conformity with the provisions of this Ordinance and any other appropriate regulatory codes. A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the building erected. No permit for excavation for, or erection of, a building shall be issued until after a statement of its intended use has been filed by the applicant.

('78 Zoning Code, Art. XI, Section 7.)

### SECTION 11-33. – JUDICIAL REVIEW

Every decision of the Board of Commissioners granting or denying a Conditional use permit and every final decision of the Board of Adjustment shall be subject to review by the Superior Court of Robeson County by proceedings in the nature of certiorari.

a) The petition for the writ of certiorari must be filed with the Robeson County Clerk of Court within 30 days after the later of the following occurrences:
b) A written copy of the board's decision has been filed in the office of the Code Administrator;
c) A written copy of the board's decision has been delivered, by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case; and
d) A copy of the writ of certiorari shall be served upon the Town of Red Springs.

### SECTION 11-34. – PERMITTED USES.

If a use is not specifically listed in any of the districts listed in this Ordinance, then the Code Administrator shall have the authority to interpret in which district the use, if any, should be permitted. If the Code Administrator rejects a proposal for a use that is not clearly disallowed in a particular district, then the Code Administrator shall:

(a) Provide the citizen with a copy of the interpretation in writing.
(b) Inform the citizen of the right to appeal the decision to the Board of Adjustment.
(c) Assist with the development of a proposed zoning text change for consideration by the Planning Board and Board of Commissioners allowing policy-makers to determine whether the proposed use should be an allowable use in the district or not. Financial responsibility for a proposed zoning text change shall be on the applicant.

### SECTION 11-35. – 11-40. – RESERVED

## CHAPTER 4 –NONCONFORMING USES

### SECTION 11-41. - SUBSTANDARD LOTS OF RECORD

After the effective date of this Ordinance, preexisting lots or structures, or uses of lots or structures, which would be prohibited under the regulations for the district in which located, shall be considered as nonconforming. Nonconforming lots, structures, or uses may be continued provided they conform to the following provisions.

Any lot of record existing at the time of the adoption of this Ordinance, which has an area or width which is less than required by this Ordinance, shall be subject to the following exceptions and modifications:

a. *Adjoining and Vacant Lots of Record.* If two (2)or more adjoining and vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less frontage or area than the minimum requirements of the district in which such lots are located, the land involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.
b. *Lot Not Meeting Lot SizeRequirements*. Except as set forth in (a) above, if a lot, which was recorded prior to the passage of this Ordinance, fails to meet lot area or width requirements or both in a district where single family residences are permitted, such lot may be used as the location of a single-family dwelling with related accessory buildings. There shall be no alteration of minimum yard requirements on such lots except where the Board of Adjustments finds, after public hearing, that the value of neighboring properties would not be unduly depreciated nor the public safety or welfare unduly affected by such action. In no case shall the Board of Adjustment reduce the yard requirements by more than 40 percent.

### SECTION 11-42. - EXTENSION OF NONCONFORMING USES

Nonconforming portions of buildings shall not hereafter be enlarged or extended in any way, provided, that a building which is nonconforming solely because of its encroachment in a required yard area may be ex- tended in any lawful manner that does not further encroach in that yard.

### SECTION 11-43. - CHANGE OF NONCONFORMING USES

Any nonconforming'use may be changed to any conforming use, or with the approval of the Board of Adjustment, to any use more in character with the uses permitted in the district. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.

### SECTION 11-44. - CESSATION OF NONCONFORMING USES

If active operations of a nonconforming use are discontinued fora continuous period of one hundred and eighty (180) days such nonconforming use shall thereafter be used only for a conforming use.

### SECTION 11-45. - DESTRUCTION OF NONCONFORMING USES

If a nonconforming structure or a structure occupied by a nonconforming use is destroyed by any means to an extent of more than 50 percent of its assessed valuation at the time of destruction, such structure may not be restored as a nonconforming structure or for a nonconforming use. If destroyed by less than 50 percent but not re- stored within 24 months of the time such damage occurred, it may not be restored as a nonconforming structure or for a nonconforming use.

### SECTION 11-46. - REPAIR AND ALTERATION OF NONCONFORMING USES

Normal maintenance and repair in a building occupied by a nonconforming use is permitted provided it does not increase the bulk of the structure nor extend the nonconforming use.

### SECTIONS 11-47. – 11-50. - RESERVED

## CHAPTER 5 –GENERAL PROVISIONS

### SECTION 11-51. – SUPPLEMENTAL REGULATIONS

The Supplemental Regulations contained in this ordinance under ***Title 4, Chapter 4*** shall apply to uses in all zoning districts.

### SECTION 11-52. - NEWLY INCORPORATED AREAS

All territory which may hereafter be included within the zoning jurisdiction of the Town of Red Springs shall be zoned by the Board of Commissioners at the time of such incorporation.

### SECTION 11-53. - LOT OF RECORD

Where the owner of a lot at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance (lot area, lot width or setback requirements), the Zoning Enforcement Officer shall allow such lot to be used as a building site in the district in which it is located; provided, that the lot width, lot area or setback requirements are not more than twenty (20) percent below the minimum specified in this Ordinance. In any case where the dimensional requirements are more than twenty (20) percent below the minimum specified in this Ordinance, the Board of Adjustment may approve, as a special exception, such dimensions as shall conform as closely as possible to the required dimensions.

### SECTION 11-54. - ADJOINING AND VACANT LOTS OF RECORD

If two (2) or more adjoining and vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less frontage or area than the minimum requirements of the district in which such a single lot or several lots are located, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

### SECTION 11-55. - MANUFACTURED HOMES TO BE UNDERPINNED

In order to insure public safety and welfare, every mobile home located in the Town of Red Springs at the time of the passage of this ordinance will, within one year, be underpinned with materials approved by and in a manner approved by the Zoning Enforcement Officer. Materials should be manufactured specifically as mobile home underpinning including vinyl, imitation brick, imitation stone/rock, fiber glass, block, brick and other similar materials. The Zoning

Enforcement Officer along with the town staff, will notify each manufactured home owner of this requirement, and insure compliance within one year.

## SECTION 11-56. - VESTED RIGHTS

The purpose of this section is to implement provisions of G.S.160A-385.1 which establishes a statutory zoning vested right upon the approval of a site specific development plan.

(a). General:

1) At the time that the landowner submits application for a conditional land use permit, the landowner must declare he is seeking to acquire a vested right pursuant to G.S. 160A-385.1 and the Town of Red Springs Zoning Ordinance by completing the accompanying form.

2) The Planning Board will schedule the public hearing.

3) A variance shall not constitute a site specific development plan, and approval of a site specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.

4) Neither a sketch plan nor any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel of parcels of property may constitute a site specific development plan.

(b). Establishment of Vested Right:

1) A vested right shall be deemed established upon the valid approval, or conditional approval of the conditional use permit. Such vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the subdivision plat, or conditional use permit.

2) A right which has been vested as provided for in this section shall remain vested for a permit of two years. This vesting shall not be extended by any amendments or modifications unless expressly provided by the town.

(c). Termination of a Vested Right**:**

A right which has been vested as provided in this section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. An established vested right runs with the land.

(d). Changes and Exceptions:

A vested right, once established as provided for in this section, precludes any zoning action by the town which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site specific development plan except:

1) With written consent of the affected landowner.

2) Upon findings that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan.

3) To the extent that the affected landowner receives compensation for all costs and losses.

4) Upon findings that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the plan approval by the town.

5) Upon the enactment of a State of federal law or regulation which precludes development as contemplated in the site specific development plan.

## SECTION 11-57. – DETERMINING WHAT IS A PERMITTED OR CONDITIONAL USE

If required to distinguish whether a use is permitted by right or is a conditional use and subject to a conditional use permit, the Code Administrator shall use the following:

The Code Administrator shall first determine the form and function of the use. When a proposed use is not specifically listed in the table of uses for each district, the Code Administrator shall determine if the use is the same as, or manifestly similar to, a listed use in form and function. If the Code Administrator finds that the proposed use is the same as, or manifestly similar to, a listed use, he shall classify the proposed use as the listed use. In doing so the Code Administrator may consult the North American Industry Classification System published by the U.S. Office of Management and Budget. If the Code Administrator finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he shall classify the proposed use as not permitted.

## SECTION 11-58. – DETERMINING THE PRIMARY USE ON A LOT

If required to distinguish the primary use on a lot, the Code Administrator shall use the following:

The principal use shall be considered as the primary purpose or function that a lot or structure serves or is proposed to serve. An accessory use shall be considered a structure or use that: (1) is clearly incidental to and customarily found in connection with a principal building or use; (2) is subordinate to and serves a principal building or a principal use; (3) is subordinate in area, extent, or purpose to the principal building or principal use served; (4) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and (5) is located on the same lot and zoned the same as the principal building or use served. Two or more principal uses may, in some cases, be permitted to occupy the same land or building as long as each use is a permitted use.

## SECTION 11-59. - PENALTY

Any violations of any provisions of this code or any other Town ordinance shall subject the offender to a civil penalty in the amount of fifty ($50) dollars. Violators shall be issued a written citation, which must be paid within ten (10) days. Each day's continuing violation shall be a separate and distinct offense. The Town Attorney is hereby authorized to file

suit on behalf of the town to collect any unpaid citations and the Town Manager is hereby authorized to verify and sign complaints on behalf of the town to such suits. (Ord. 9-6-2005)

### SECTION 11-60. – 11-70. - RESERVED

# CHAPTER 6 –DISTRICT REGULATIONS

## SECTION 11-71. - OPEN SPACE DISTRICT (OS)

The open space zoning district is intended to preserve and enhance public and private open space, natural areas, and improved park and recreational areas. The district is used to implement the Comprehensive Land Use Plan designations of public parks, public open space/recreation, and private open space/recreation. Open space may include landscape corridors, habitat mitigation areas, wetlands, wildlife habitat and corridors, lakes, trails, golf courses, and similar uses. Uses such as recreation centers, nature centers, public golf courses, and joint use facilities may be permitted with approval of a conditional use permit.

### A. PERMITTED USES AND CONDITIONAL USES

| LAND USE | P=Permitted/CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Bona Fide Farms | P | X |
| Child Care Center | CUP | X |
| Crop Production | CUP | |
| Equestrian Facility | CUP | |
| Assembly Uses | CUP | |
| Community Garden | P | |
| Golf Courses, Par3 | CUP | X |
| Libraries and Museums | CUP | |
| Parks and Recreation | CUP | |
| Resource Protection and Restoration | P | |
| Resource-Related Recreation | P | |
| Schools | CUP | |
| Theaters and Auditoriums | CUP | |
| Bus and Transit Shelters | P | |
| Parking Facility | CUP | |
| Telecommunications Facility | CUP | |
| Utility Facility and Infrastructure | P | |

**B. DIMENSIONAL REQUIREMENTS**

| Minimum Lot Size | Minimum Lot Width at the Building Line | Minimum Front Yard Setback | Minimum Rear Yard Setback | Minimum Side Yard Setback | Minimum Corner Lot Side Yard Setback | Maximum Building Height |
|---|---|---|---|---|---|---|
| No Minimum | N/A | 25 feet | 25 feet | 10 feet | 25 feet | 45 feet |

**C. OFF-STREET PARKING AND LOADING**

Off-street parking and loading shall be provided according to the provisions set forth in Chapter 8 of this Title.

**D. SIGNS**

All signs shall conform to the provisions set forth in Chapter 7 of this Title.

## *SECTION 11-72. –AGRICULTURAL RESIDENTIAL (AR)*

This district is composed of quiet, low density residential development and of open areas used as farm land and woodland. The regulations of this district are intended (1) to insure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at sufficiently low densities to insure a healthful environment and (2) to protect agricultural and residential areas from an influx of incompatible uses which would render such areas undesirable for farms and future development. The regulations are intended to prohibit any use which, because of its character, would interfere with the residential nature of this district.

### A. PERMITTED AND CONDITIONAL USES

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Accessory Uses and Structures | P | YES |
| Agriculture including crop production and animals | P | YES |
| Automobile Sales, New and Used | CUP | YES |
| Assembly Uses | CUP | |
| Beauty Shops | CUP | |
| Bed and Breakfast Inns | CUP | |
| Bona Fide Farms | P | YES |
| Bus and Transit Shelter | P | |
| Cemeteries and Mausoleums | CUP | |
| Child Care Center/Day Care Center | CUP | YES |
| Community Garden | P | |
| Equestrian Facilities/Riding Academies | P | |
| Family Care Homes | CUP | YES |
| Farm Stands | **P** | YES |
| Flea Markets | **CUP** | YES |

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Fire Stations | CUP | |
| Golf Courses, Par3, Driving Ranges | CUP | YES |
| Group Home | CUP | YES |
| Health Care and Health Service Facilities | CUP | YES |
| Home Occupations | P | YES |
| Libraries and Museums | CUP | |
| Manufactured Home Parks | CUP | YES |
| Multifamily Dwellings | CUP | YES |
| Parking Facility | CUP | |
| Parks and Recreation | P | |
| Plant Nurseries and Greenhouses | P | |
| Religious Institutions, Churches | CUP | |
| Resource Protection and Restoration | P | |
| Resource-Related Recreation | P | |
| Rest Homes and Convalescent Homes | CUP | YES |
| Single-Family Homes | P | |
| Schools, Colleges and Other Similar Public and Private Institutions | CUP | |
| Solar Energy Facility | CUP | |
| Theaters and Auditoriums | CUP | |
| Telecommunications Facility/Tower more than 35 feet in height | CUP | |
| Temporary Uses | CUP | YES |
| Two-Family (Duplex) Home | P | YES |
| Utility and Public Works Facility and Infrastructure | P | |
| Veterinarians and Animal Care Facilities; Kennels | CUP | YES |

**B. DIMENSIONAL REQUIREMENTS**

The following dimensional requirements shall cover all uses permitted in the A-R Zone.

| Type of Use | Minimum Lot Size | Minimum Lot Width at the Building Line | Minimum Front Yard Setback | Minimum Rear Yard Setback | Minimum Side Yard Setback | Minimum Corner Lot Side Yard Setback | Maximum Building Height |
|---|---|---|---|---|---|---|---|
| Single-Family Dwellings without public water and sewer | 20,000 sq. ft. | 90 feet | 50 feet | 25 feet | 12 feet | 20 feet | 35 feet |
| Single-Family Dwellings with public water and sewer | 20,000 sq. ft. | 75 feet | 25 feet | 25 feet | 12 feet | 20 feet | 35 feet |
| Non-Residential Use | 1 acre | 150 feet | 50 feet | 25 feet | 25 feet | 20 feet | 35 feet |

**C. PARKING**

Off-street parking shall be provided according to the provisions set forth in Chapter 8 of this Title.

D**. SIGNS**

All signs shall conform to Chapter 7 of this Title**.**

## *SECTION 11-73. - RESIDENCE DISTRICT (R)*

In the Residence District, the principal use of land is for medium density residential and agricultural purposes, and to protect low density single-family and duplex residential areas for those desiring that type of environment. The regulations are intended to prohibit any use which, because of its character, would interfere with the residential nature of this district. This district are intended to insure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment.

### A. PERMITTED AND CONDITIONAL USES

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Accessory Uses and Structures | P | YES |
| Agriculture | P | YES |
| Bed and Breakfast Inns | P | |
| Bus and Transit Shelter | P | |
| Cemeteries and Mausoleums | CUP | |
| Child Care Center/Day Care Center | P | YES |
| Community Garden | P | |
| Equestrian Facilities/Riding Academies | CUP | |
| Family Care Homes | P | YES |
| Fire Stations | P | |
| Golf Courses, Par3, Driving Ranges | CUP | YES |
| Group Home | P | YES |
| Home Occupations | P | YES |

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Libraries and Museums | P | |
| Multi-Family dwellings | CUP | YES |
| Parks and Recreation | P | |
| Plant Nurseries and Greenhouses | CUP | |
| Religious Institutions, Churches | P | |
| Resource Protection and Restoration | P | |
| Resource-Related Recreation | P | |
| Rest Homes and Convalescent Homes | CUP | YES |
| Single-Family Homes | P | |
| Schools, Colleges and Other Similar Public and Private Institutions | P | |
| Solar Energy Facility | CUP | |
| Telecommunications Facility/Tower | CUP | |
| Two-Family (Duplex) Home | P | YES |
| Utility and Public Works Facility and Infrastructure | P | |

**B. DIMENSIONAL REQUIREMENTS**

The following dimensional requirements shall cover all uses permitted in the Residence Zone.

| Residence Type | Minimum Lot Size | Minimum Lot Width at the Building Line | Minimum Front Yard Setback | Minimum Rear Yard Setback | Minimum Side Yard Setback | Minimum Corner Lot Side Yard Setback | Maximum Building Height |
|---|---|---|---|---|---|---|---|
| Single-Family Dwelling with public water and sewer | 10,000 sq. ft. | 75 ft. | 25 ft. | 25 ft. | 10 f. | | 35 ft. |
| Single-Family Dwelling without public water and sewer | 15,000 sq. ft. | 75 ft. | 25 ft. | 25 ft. | 10 ft. | | 35 ft. |
| Multi-Family Dwellings | 20,000 sq. ft./5,000 sq. ft. per unit | 90 ft. | 25 ft. | 25 ft. | 15 ft. | | 35 ft. |
| Non-residential uses | 20,000 sq. ft. | 90 ft. | 25 ft. | 25 ft. | 20 ft. | 20 feet | 35 ft. |

**C. PARKING**

Off-street parking shall be provided according to the provisions set forth in Chapter 8 of this Title.

**D. SIGNS**

All signs shall conform to Chapter 7 of this Title.

## *SECTION 11-74. – RESIDENTIAL MOBILE HOME DISTRICT (R-MH)*

In the Residential Mobile Home District is defined as medium-density residential areas of mostly single-family dwellings, open areas where similar residential development and manufactured home parks will likely occur. The uses permitted in this district are designed to stabilize and protect the essential characteristics of the area and to prohibit all activities of a commercial nature except certain home occupations controlled by specific limitations. Mobile homes on individual lots are permitted in this district.

### A. PERMITTED AND CONDITIONAL USES

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Accessory Uses and Structures | P | YES |
| Agriculture including row crops and animals | P | YES |
| Bed and Breakfast Inns | P | |
| Bus and Transit Shelter | P | |
| Cemeteries and Mausoleums | CUP | |
| Child Care Center/Day Care Centers | CUP | YES |
| Class A Manufactured Homes | P | |
| Community Garden | P | |
| Equestrian Facilities/Riding Academies | CUP | |
| Family Care Homes | CUP | YES |
| Fire Stations | P | |
| Health Care and Health Services Facilities | CUP | YES |
| Libraries and Museums | P | |

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Mobile Home Parks | CUP | YES |
| Parking for non-residential uses in adjacent non-residential districts (remote parking) | CUP | |
| Parks and Recreation | P | |
| Religious Institutions, Churches | P | |
| Resource Protection and Restoration | P | |
| Resource-Related Recreation | P | |
| Rest Homes and Convalescent Homes | CUP | YES |
| Rooming and Boarding Houses | CUP | |
| Single-Family Homes | P | |
| Schools, Colleges and Other Similar Public and Private Institutions | CUP | |
| Two-Family (Duplex) Home | P | YES |
| Utility and Public Works Facility and Infrastructure | P | |

**B. DIMENSIONAL REQUIREMENTS**

The following dimensional requirements shall cover all uses permitted in the Residential Mobile Home Zone.

| Residence Type | Minimum Lot Size | Minimum Lot Width at the Building Line | Minimum Front Yard Setback | Minimum Rear Yard Setback | Minimum Side Yard Setback | Minimum Corner Lot Side Yard Setback | Maximum Building Height |
|---|---|---|---|---|---|---|---|
| Single-Family Dwelling with public water and sewer | 10,000 sq. ft. | 75 ft. | 25 ft. | 25 ft. | 10 ft. | | 35 ft. |
| Single-Family Dwelling without public water and sewer | 15,000 sq. ft. | 75 ft. | 25 ft. | 25 ft. | 10 ft. | | 35 ft. |
| Multi-Family Dwellings | 20,000 sq. ft./5,000 sq. ft. per unit | 90 ft. | 25 ft. | 25 ft. | 15 ft. | | 35 ft. |
| Mobile Home without public water and sewer | 15,000 sq. ft. | 50 ft. | 15 ft. | 15 ft. | 15 ft. | | 20 ft. |
| Mobile Home with public water and sewer | 5,000 sq. ft. | 50 ft. | 15 ft. | 15 ft. | 15 ft. | | 20 ft. |
| Non-residential uses | 20,000 sq. ft. | 90 ft. | 25 ft. | 25 ft. | 20 ft. | 20 feet | 35 ft. |

**C. PARKING**

Off-street parking shall be provided according to the provisions set forth in Chapter 8 of this Title.

**D. SIGNS**

All signs shall conform to Chapter 7 of this Title.

## *SECTION 11-75. – RESIDENTIAL MOBILE HOME DISTRICT – 1 – CLASS A MANUFACTURED HOMES (RMH-1)*

In the Residential Mobile Home District is defined as medium-density residential areas of mostly single-family dwellings, open areas where similar residential development will likely occur and manufactured home parks. The uses permitted in this district are designed to stabilize and protect the essential characteristics of the area and to prohibit all activities of a commercial nature except certain home occupations controlled by specific limitations. Only Class "A" manufactured homes are permitted in this district.

### A. PERMITTED AND CONDITIONAL USES

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Accessory Uses and Structures | P | YES |
| Agriculture including row crops and animals | P | YES |
| Bed and Breakfast Inns | P | |
| Bus and Transit Shelter | P | |
| Cemeteries and Mausoleums | CUP | |
| Child Care Center/Day Care Center | CUP | YES |
| Class A Manufactured Homes | P | |
| Community Garden | P | |
| Equestrian Facilities/Riding Academies | CUP | |
| Family Care Homes | CUP | YES |
| Fire Stations | P | |
| Health Care and Health Service Facilities | CUP | YES |

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Libraries and Museums | P | |
| Mobile Home Parks | CUP | YES |
| Parking for non-residential uses in adjacent non-residential districts (remote parking) | CUP | |
| Parks and Recreation | P | |
| Religious Institutions, Churches | P | |
| Resource Protection and Restoration | P | |
| Resource-Related Recreation | P | |
| Rest Homes and Convalescent Homes | CUP | YES |
| Rooming and Boarding Houses | CUP | |
| Single-Family Homes | P | |
| Schools, Colleges and Other Similar Public and Private Institutions | CUP | |
| Two-Family (Duplex) Home | P | YES |
| Utility and Public Works Facility and Infrastructure | P | |

**B. DIMENSIONAL REQUIREMENTS**

The following dimensional requirements shall cover all uses permitted in the Residential Mobile Home - 1 Zone.

| Residence Type | Minimum Lot Size | Minimum Lot Width at the Building Line | Minimum Front Yard Setback | Minimum Rear Yard Setback | Minimum Side Yard Setback | Minimum Corner Lot Side Yard Setback | Maximum Building Height |
|---|---|---|---|---|---|---|---|
| Single-Family Dwelling with public water and sewer | 10,000 sq. ft. | 75 ft. | 25 ft. | 25 ft. | 10 ft. | | 35 ft. |
| Single-Family Dwelling without public water and sewer | 15,000 sq. ft. | 75 ft. | 25 ft. | 25 ft. | 10 ft. | | 35 ft. |
| Multi-Family Dwellings | 20,000 sq. ft./5,000 sq. ft. per unit | 90 ft. | 25 ft. | 25 ft. | 15 ft. | | 35 ft. |
| Class "A" Mobile Home without public water and sewer | 15,000 sq. ft. | 75 ft. | 25 ft. | 25 ft. | 10 ft. | | 35 ft. |
| Class "A" Mobile Home with public water and sewer | 10,000 sq. ft. | 75 ft. | 25 ft. | 25 ft. | 10 ft. | | 35 ft. |
| Non-residential uses | 20,000 sq. ft. | 90 ft. | 25 ft. | 25 ft. | 20 ft. | 20 feet | 35 ft. |

**C. PARKING**

Off-street parking shall be provided according to the provisions set forth in Chapter 8 of this Title.

**D. SIGNS**

All signs shall conform to Chapter 7 of this Title.

## *SECTION 11-76. - RESIDENTIAL MULTIFAMILY (R-MF).*

The Residential Multi-family District permits high density residential development. Multi-family dwellings such as apartments are permitted. The regulations of this district are intended to provide the community with areas of relatively high density neighborhoods for residents desiring small dwelling units and multi-family structures.

### A. PERMITTED AND CONDITIONAL USES

| LAND USE | P=Permitted by Right; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Accessory Uses and Structures | P | YES |
| Bed and Breakfast Inns | P | |
| Bus and Transit Shelter | P | |
| Child Care Center/Day Care Center | P | YES |
| Community Garden | P | |
| Family Care Homes | P | YES |
| Fire Stations | P | |
| Group Home | P | YES |
| Libraries and Museums | P | |
| Parks and Recreation | P | |
| Manufactured Home Class “A” | P | |
| Manufactured Home Park | CUP | YES |
| Multi-Family Dwellings | P | YES |
| Religious Institutions, Churches | P | |

| LAND USE | P=Permitted by Right; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Resource Protection and Restoration | P | |
| Resource-Related Recreation | P | |
| Rest Homes and Convalescent Homes | CUP | YES |
| Single-Family Homes | P | |
| Schools, Colleges and Other Similar Public and Private Institutions | P | |
| Telecommunications Facility/Tower | CUP | |
| Two-Family (Duplex) Home | P | YES |
| Utility and Public Works Facility and Infrastructure | P | |

**B. DIMENSIONAL REQUIREMENTS**

The following dimensional requirements shall cover all uses permitted in the R-MF Zone.

**1. Single Family and Two Family Dwellings:**

| Minimum Lot Size | Minimum Lot Width at the Building Line | Minimum Front Yard Setback | Minimum Rear Yard Setback | Minimum Side Yard Setback | Minimum Corner Lot Side Yard Setback | Maximum Building Height |
|---|---|---|---|---|---|---|
| 12,000 sq. ft. | 80 feet | 30 feet | 25 feet | 10 feet | 15 feet | 35 feet |

**2. Three or more Dwelling Units:**

| Minimum Lot Size | Minimum Lot Width at the Building Line | Minimum Front Yard Setback | Minimum Rear Yard Setback | Minimum Side Yard Setback | Minimum Corner Lot Side Yard Setback | Maximum Building Height |
|---|---|---|---|---|---|---|
| 10,000 sq. ft. | 70 feet | 25 feet | 25 feet | 10 feet | 15 feet | 35 feet |

**C. OFF-STREET PARKING**

Off-street parking shall be provided according to the provisions set forth in Chapter 8 of this Title.

**D. SIGNS**

All signs shall conform to the provisions set forth in Chapter 7 of this Title.

## SECTION 11-77. - CENTRAL BUSINESS DISTRICT (CBD)

The Central Business District (CBD) is established as the centrally located trade and commercial service area of the community. The district encourages and provides for revitalization, reuse and infill development and the integration of shops, restaurants, services, civic, educational and religious facilities and higher density residential housing in a pedestrian-oriented environment. The regulations of this district are designed to encourage the continued use of land for community trade and commercial service uses, and to permit a concentrated development of permitted uses while maintaining a substantial relationship between the intensity of land uses and the capacity of utilities and streets.

### A. PERMITTED AND CONDITIONAL USES

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Accessory Uses and Structures | P | YES |
| Automobile Sales, New and Used | CUP | YES |
| Automobile Service Stations | CUP | YES |
| Assembly Uses | CUP | |
| Beauty Shops | CUP | |
| Bed and Breakfast Inns | P | |
| Bus and Transit Shelter | P | |
| Child Care Center | P | YES |
| Civic, Fraternal, Cultural, Community or Club Houses | P | |
| Community Garden | P | |
| Family Care Homes | P | YES |
| Fire Stations | P | |
| Funeral Homes and Mortuaries | P | |
| Government Offices and Services | P | |
| Group Home | P | YES |

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Hotels and Motels | P | |
| Libraries and Museums | P | |
| Medical and other Professional Offices | P | YES |
| Mixed Uses | CUP | YES |
| Office and Professional Buildings | P | |
| Parking Facility | CUP | |
| Parks and Recreation | P | |
| Pool and Billiard rooms, amusement arcades, indoor amusement and similar uses | CUP | |
| Radio and TV Shops, New and Repair | P | |
| Religious Institutions, Churches | P | |
| Resource Protection and Restoration | P | |
| Resource-Related Recreation | P | |
| Restaurants and Bars | P | |
| Retail Shops | P | |
| Service Stations and other auto-related business establishments | CUP | YES |
| Schools, Colleges and Other Similar Public and Private Institutions | P | |
| Shops for Repair and Trade | P | |
| Taxi Stands | P | |
| Telecommunications Facility/Tower | CUP | |
| Temporary Mobile Food Sales | CUP | YES |
| Temporary Outdoor Sales of Agricultural and related products such as a farmer's market, Christmas tree or pumpkin sales | CUP | YES |
| Theaters and Auditoriums | P | |
| Utility and Public Works Facility and Infrastructure | P | |

**B. DIMENSIONAL REQUIREMENTS**

| Minimum Lot Size | Minimum Lot Width at the Building Line | Minimum Front Yard Setback | Minimum Rear Yard Setback | Minimum Side Yard Setback | Minimum Corner Lot Side Yard Setback | Maximum Building Height |
|---|---|---|---|---|---|---|
| N/A | 25 ft. | N/A | N/A | None, but when side yard is provided it shall be a minimum of five (5) feet | None | 50 ft. |

**C. OFF-STREET PARKING AND LOADING**

Off-street parking and loading shall be provided according to the provisions set forth in Chapter 8 of this Title with the following exceptions:

a. Hotels, motels, and similar uses shall meet the parking requirements of Sections 10-112 and 10-113.
b. Banks and other establishments with drive-in windows shall file a circulation plan providing adequate off-street waiting lanes for drive-in customers.
c. The Board of Commissioners, upon recommendation by the Planning Board, may waive parking requirements.

**D. SIGNS**

All signs shall conform to the provisions set forth in Chapter 7 of this Title.

**E. COMPATIBILITY OF DEVELOPMENT**

Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.

**F. BUFFERS**

Buffers shall be required where a use permitted or conditionally approved in the Central Business District abuts land which is zoned Residence. The buffer shall be of continuous evergreen composition and be not less than six (6) feet in height or less than three (3) feet in width. The buffer requirement may be waived by the Planning Board along any boundary which is naturally screened by evergreen plant materials or topography, or may be deferred in undeveloped areas.

## SECTION 11-78. - GENERAL BUSINESS DISTRICT (GB)

General Business Districts are located on major thoroughfares where traffic is dependent on an automobile or public transit and are intended to provide for offices, personal services and the retailing of durable and convenience goods for the community. These commercial and business uses are subject to public view and are important to the economy of the area; they should have ample parking, controlled traffic movement and suitable landscaping.

### A. PERMITTED AND CONDITIONAL USES

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Accessory Uses and Structures | P | YES |
| Animal Hospitals/Clinics, Kennels and Vet Offices | P | YES |
| Assembly Halls, coliseums, armories, ballrooms and similar structures | P | |
| Automobile Sales, New and Used | P | YES |
| Auction Sales | CUP | |
| Beauty Shops | CUP | |
| Bed and Breakfast Inns | P | |
| Bingo and similar amusement parlors | CUP | |
| Boat and Trailer Works and Sales | P | |
| Bowling Alleys, Skating rinks, miniature golf courses and other similar recreation establishments | P | YES |
| Building materials storage and sales yard | P | |
| Bus and Transit Shelter | P | |
| Car Washes | P | |
| Child Care Center | P | YES |
| Community Garden | P | |

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Civic, Fraternal, Cultural, Community or Club Houses | P | |
| Contractor Offices | P | |
| Drive-In Restaurants | P | |
| Dry Cleaning and Laundering Plants | P | |
| Farm Equipment and Machinery, sales, assembly and repair | P | |
| Family Care Homes | P | YES |
| Fire Stations | P | |
| Food and Grocery Stores | P | |
| Floral and Gift Shops | P | |
| Funeral Homes and Mortuaries | P | |
| Golf Courses, Par 3 and Driving Ranges | P | YES |
| Group Home | P | YES |
| Health Care and Health Services Facilities | CUP | YES |
| Hotels | P | |
| Industrial Supplies and Equipment sales and service | P | |
| Indoor Amusement | P | |
| Jewelry Sales and Repair Shops | P | |
| Laundry Mats | P | |
| Libraries and Museums | P | |
| Locksmiths and Gun Smiths | P | |
| Machine and Welding Shops | P | |

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Medical and other Professional Offices | P | |
| Mixed Uses | P | |
| Mobile Home Sales | P | YES |
| Monument Works and Sales | P | |
| Motels and Motor Lodges | P | |
| Parking Facility | P | |
| Parks and Recreation | P | |
| Pawn and Thrift Shops | P | |
| Radio and TV Shops, New and Repair | P | |
| Religious Institutions, Churches | P | |
| Resource Protection and Restoration | P | |
| Resource-Related Recreation | P | |
| Restaurants and Bars | P | |
| Rest and Convalescent Homes | P | YES |
| Retail Shops | P | . |
| Service Stations, auto garages and related businesses | CUP | YES |
| Schools, Colleges and Other Similar Public and Private Institutions | P | |
| Shops for Repair and Trade | P | |
| Taxi Stands | P | |
| Temporary Mobile Food Sales | CUP | YES |
| Temporary Outdoor Sales of Agricultural and related products such as a farmer's market, Christmas tree or pumpkin sales | P | YES |
| Temporary Outdoor Uses | P | YES |

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Theaters and Auditoriums | P | |
| Theaters, Drive-In | P | |
| Truck Terminals, transfer companies, wholesale, jobbing and warehousing | CUP | |
| Wholesale storage of gasoline, and oil products, including bottled gas and oxygen | CUP | |
| Utility and Public Works Facility and Infrastructure | P | |

**a. DIMENSIONAL REQUIREMENTS**

| Minimum Lot Size | Minimum Lot Width at the Building Line | Minimum Front Yard Setback | Minimum Rear Yard Setback | Minimum Side Yard Setback | Minimum Corner Lot Side Yard Setback | Maximum Building Height |
|---|---|---|---|---|---|---|
| 20,000 sq. ft. | 100 ft. | 50 ft. | 20 ft. | None, but when side yard is provided it shall be a minimum of five (5) feet | None | 35 ft. |

**b. OFF-STREET PARKING AND LOADING**

Off-street parking and loading shall be provided according to the provisions set forth in Chapter 8 of this Title, with the following exceptions:

a) Hotels, motels, and similar uses shall meet the parking requirements of Section 10.112 and 10.113.
b) Banks and other establishments with drive-in windows shall file a circulation plan providing adequate off-street waiting lanes for drive-in customers.
c) The Board of Commissioners, upon recommendation by the Planning Board, may waive parking requirements.

**D. SIGNS**

All signs shall conform to the provisions set forth in Chapter 7 of this Title.

**E. BUFFERS**

Buffers shall be required where a use permitted or conditionally approved in the Central Business District abuts land which is zoned Residence. The buffer shall be of continuous evergreen composition and be not less than six (6) feet in height or less than three (3) feet in width. Additional buffering in the form of fencing may be required by the Planning Board where it is deemed necessary to protect public health, safety, and general welfare. The buffer requirement may be waived by the Planning Board along any boundary which is naturally screened by evergreen plant materials or topography, or may be deferred in undeveloped areas.

## SECTION 11-79. - GENERAL BUSINESS DISTRICT - I (GB-1)

General Business District - I is located on major thoroughfares where traffic is dependent on an automobile or public transit and are intended to provide for offices, personal services and the retailing of durable and convenience goods for the community. These commercial and business uses are subject to public view and are important to the economy of the area; they should have ample parking, controlled traffic movement and suitable landscaping. The GB-1 district is similar to the GB district with the exception of dimensional requirements.

### A. PERMITTED AND CONDITIONAL USES

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Accessory Uses and Structures | P | YES |
| Animal Hospitals and Vet Offices | P | YES |
| Assembly Halls, coliseums, armories, ballrooms and similar structures | P | |
| Automobile Sales, New and Used | P | YES |
| Auction Sales | CUP | |
| Beauty Shops | CUP | |
| Bed and Breakfast Inns | P | |
| Bingo and similar amusement parlors | CUP | |
| Boat and Trailer Works and Sales | P | |
| Bowling Alleys, Skating rinks, miniature golf courses and other similar recreation establishments | P | |
| Building materials storage and sales yard, | P | |
| Bus and Transit Shelter | P | |
| Car Washes | P | |
| Child Care Center/Day Care Center | P | |
| Civic, Fraternal, Cultural, Community or Club Houses | P | |
| Contractor Offices | P | |
| Community Garden | P | |

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Drive-In Restaurants | P | |
| Dry Cleaning and Laundering Plants | P | |
| Farm Equipment and Machinery, sales, assembly and repair | P | |
| Family Care Homes | P | YES |
| Fire Stations | P | |
| Food and Grocery Stores | P | |
| Floral and Gift Shops | P | |
| Funeral Homes and Mortuaries | P | |
| Golf Courses, Par 3 and Driving Ranges | P | YES |
| Group Home | P | YES |
| Health Care and Health Services Facilities | CUP | YES |
| Hotels | P | |
| Industrial Supplies and Equipment sales and service, | P | |
| Indoor Amusement | P | |
| Jewelry Sales and Repair Shops | P | |
| Laundry Mats | P | |
| Libraries and Museums | P | |
| Locksmiths and Gun Smiths | P | |
| Machine and Welding Shops | P | |
| Medical and other Professional Offices | P | |
| Mixed Uses | P | |

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Mobile Home Sales | P | YES |
| Monument Works and Sales | P | |
| Motels and Motor Lodges | P | |
| Parking Facility | P | |
| Parks and Recreation | P | |
| Pawn and Thrift Shops | P | |
| Radio and TV Shops, New and Repair | P | |
| Religious Institutions, Churches | P | |
| Resource Protection and Restoration | P | |
| Resource-Related Recreation | P | |
| Restaurants and Bars | P | |
| Rest and Convalescent Homes | P | YES |
| Retail Shops | P | . |
| Service Stations, auto garages and related businesses | CUP | |
| Schools, Colleges and Other Similar Public and Private Institutions | P | |
| Shops for Repair and Trade | P | |
| Taxi Stands | P | |
| Temporary Mobile Food Sales | CUP | YES |
| Temporary Outdoor Sales of Agricultural and related products such as a farmer's market, Christmas tree or pumpkin sales | P | YES |

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Theaters and Auditoriums | P | |
| Theaters, Drive-In | P | |
| Truck Terminals, transfer companies, wholesale, jobbing and warehousing | CUP | |
| Utility and Public Works Facility and Infrastructure | P | |
| Wholesale storage of gasoline, and oil products, including bottled gas and oxygen | CUP | |

**B. DIMENSIONAL REQUIREMENTS**

| Minimum Lot Size | Minimum Lot Width at the Building Line | Minimum Front Yard Setback | Minimum Rear Yard Setback | Minimum Side Yard Setback | Minimum Corner Lot Side Yard Setback | Maximum Building Height |
|---|---|---|---|---|---|---|
| 15,000 sq. ft. | 75 ft. | 50 ft. | 20 ft. | None, but when side yard is provided it shall be a minimum of five (5) feet | None | 35 ft. |

**C. OFF-STREET PARKING AND LOADING**

Off-street parking and loading shall be provided according to the provisions set forth in Chapter 8 of this Title, with the following exceptions:

d) Hotels, motels, and similar uses shall meet the parking requirements of Section 10-112 and 10-113.
e) Banks and other establishments with drive-in windows shall file a circulation plan providing adequate off-street waiting lanes for drive-in customers.
f) The Board of Commissioners, upon recommendation by the Planning Board, may waive parking requirements.

**D. SIGNS**

All signs shall conform to the provisions set forth in Chapter 7 of this Title.

**E. BUFFERS**

Buffers shall be required where a use permitted or conditionally approved in the Central Business District abuts land which is zoned Residence. The buffer shall be of continuous evergreen composition and be not less than six (6) feet in height or less than three (3) feet in width. Additional buffering in the form of fencing may be required by the Planning Board where it is deemed necessary to protect public health, safety, and general welfare. The buffer requirement may be waived by the Planning Board along any boundary which is naturally screened by evergreen plant materials or topography, or may be deferred in undeveloped areas.

## *SECTION 11-80. – OFFICE AND PROFESSIONAL (O&P)*

The regulations for this district are designed to permit concentrated development of business and professional office facilities within the jurisdiction and to encourage development that is compatible with nearby residential areas that are not hazardous to safe vehicular and pedestrian traffic.

### A. PERMITTED AND CONDITIONAL USES

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Accessory Uses and Structures | P | YES |
| Assembly Uses | CUP | |
| Beauty Shops | CUP | |
| Bed and Breakfast Inns | P | |
| Bus and Transit Shelter | P | |
| Child Care Center/Day Care Center | P | YES |
| Civic, Fraternal, Cultural, Community or Club Houses | P | |
| Fire Stations | P | |
| Funeral Homes and Mortuaries | P | |
| Government Offices and Services | P | |
| Health Care and Health Services Facilities | CUP | YES |
| Hotels and Motels | P | |
| Libraries and Museums | P | |
| Medical and other Professional Offices | P | |
| Office and Professional Buildings | P | |
| Parking Facility | CUP | |
| Parks and Recreation | P | |

| LAND USE | P=Permitted; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Restaurants and Bars | P | |
| Retail Shops | P | |
| Service Stations and other auto-related business establishments | CUP | CUP |
| Schools, Colleges and Other Similar Public and Private Institutions | P | |
| Taxi Stands | P | |
| Telecommunications Facility/Tower | CUP | |
| Temporary Mobile Food Sales | CUP | YES |
| Theaters and Auditoriums | P | |
| Utility and Public Works Facility and Infrastructure | P | |

**B. DIMENSIONAL REQUIREMENTS**

| Minimum Lot Size | Minimum Lot Width at the Building Line | Minimum Front Yard Setback | Minimum Rear Yard Setback | Minimum Side Yard Setback | Minimum Corner Lot Side Yard Setback | Maximum Building Height |
|---|---|---|---|---|---|---|
| N/A | 25 ft. | N/A | N/A | None, but when side yard is provided it shall be a minimum of five (5) feet | None | 50 ft. |

**C. OFF-STREET PARKING AND LOADING**

Off-street parking and loading shall be provided according to the provisions set forth in Chapter 8 of this Title with the following exceptions:

d. Hotels, motels, and similar uses shall meet the parking requirements of **§11-112 and §11-113**.
e. Banks and other establishments with drive-in windows shall file a circulation plan providing adequate off-street waiting lanes for drive-in customers.
f. The Board of Commissioners, upon recommendation by the Planning Board, may waive parking requirements.

**D. SIGNS**

All signs shall conform to the provisions set forth in Chapter 7 of this Title.

**E. COMPATIBILITY OF DEVELOPMENT**

Along existing streets, new buildings shall respect the general spacing of structures, building mass and scale, and street frontage relationships of existing buildings.

**F. BUFFERS**

Buffers shall be required where a use permitted or conditionally approved in the Central Business District abuts land which is zoned Residence. The buffer shall be of continuous evergreen composition and be not less than six (6) feet in height or less than three (3) feet in width. The buffer requirement may be waived by the Planning Board along any boundary which is naturally screened by evergreen plant materials or topography, or may be deferred in undeveloped areas.

## SECTION 11-81. - INDUSTRIAL (I)

The Industry District is established for those areas of the community where the principal use of land is for manufacturing, industrial, and warehousing activities. These uses, by their nature, may create some nuisances which are not properly associated with residential, institutional, commercial and/or service establishments. These uses normally seek outlying locations on large tracts of land where the operations involved do not detract from the development potential of nearby undeveloped properties.

**A. PERMITTED USES**

| LAND USE | P=Permitted by Right; CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Automobile Service Stations | CUP | YES |
| Automobile Sales, New and Used | P | YES |
| Automobile Wrecking Yards | CUP | |
| Boat and Trailer Works and Sales | P | |
| Building materials storage and sales yard, | P | |
| Bus and Transit Shelter | P | |
| Car Washes | P | |
| Contractor Offices | P | |
| Dry Cleaning and Laundering Plants | P | |
| Farm Equipment and Machinery, sales, assembly and repair | P | |
| Fertilizer Manufacture and Sales | CUP | |
| Fire Stations | P | |
| Industrial Supplies and Equipment sales and service, | P | |
| Locksmiths and Gun Smiths | P | |
| Manufacturing, Assembling and Processing Industries | CUP | YES |
| Machine and Welding Shops | P | |
| Monument Works and Sales | P | |
| Parking Facility | CUP | |

| LAND USE | P=Permitted by Right in this District -or- CUP=Conditional Use Permit Required | Supplemental Regulations Apply |
|---|---|---|
| Taxi Stands | P | |
| Temporary Mobile Food Sales | CUP | YES |
| Truck Terminals and Transfer Companies | P | |
| Telecommunications Facility/Tower | CUP | |
| Utility and Public Works Facility and Infrastructure | P | |
| Wholesale Sales | P | |
| Wholesale storage of gasoline, and oil products, including bottled gas and oxygen | P | YES |

**B. CONDITIONAL USES**

**Any industrial use may be permitted which the Town Board of Commissioners finds can conform to the following requirements:**

(a) There is no unusual fire, explosion, or safety hazard.

(b) There is no emission of fly ash, dust, fumes, vapors, mist, or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation, or other forms of property.

(c) There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.

(d) There is no emission of any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside the premises.

**C. DIMENSIONAL REQUIREMENTS**

There are no minimum lot sizes in this district.

**D. REQUIRED BUFFERS**

After the effective date of this Ordinance, where this district abuts a lot in a residential district or land occupied by any residential use permitted by this Ordinance, there shall be provided and maintained along said property line a continuous visual buffer. The buffer shall be a compact evergreen hedge or other type of evergreen foliage screening

which shall reach a height of eight (8) feet within four years and shall be maintained at a minimum of eight feet in height thereafter, or shall be combined fence and shrubbery screen, the latter facing the residential use.

This requirement can be waived by the Board of Adjustment upon the recommendation of the Planning Board along any boundary which is naturally screened by evergreen plant materials or topography, or may be deferred in isolated areas.

**E. OFF-STREET PARKING AND LOADING**

Off-street parking and loading shall be provided according to the provisions set forth in ***Chapter 8*** of this Ordinance.

**F. SIGNS**

All signs shall conform to the provisions set forth in ***Chapter 7*** of this Ordinance.

## *SECTIONS 11-82. – 11-85. – RESERVED.*

# CHAPTER 7 – SIGN REGULATIONS

## SECTION 11-86 - PERMIT REQUIRED

It is the purpose of this section to permit signs of a commercial, industrial, and residential nature and to regulate the size and placement of signs which are visible from any public way. These regulations shall apply to all districts. No exterior sign may be erected, painted, repainted, posted, reported, placed, replaced or hung in any district, except in compliance with these regulations.

With the exception of those signs specifically authorized below, no sign may be erected without a permit from the Zoning Enforcement Officer.

## SECTION 11-87 - PERMIT APPLICATION

Application for permits shall be submitted on forms obtainable at the Office of the Zoning Enforcement Officer. Each application shall be accompanied by plan which shall:

(a) Indicate the proposed site by identifying the property by ownership, location and use; and

(b) Show the location of the sign on the lot in relation to property lines and building, zoning district boundaries, right-of-way lines, and existing signs; and

(c) Show size, character, complete structural specifications and methods of anchoring and support.

If conditions warrant, the Zoning Enforcement Officer may require such additional information as will enable him/her to determine if such sign is to be erected in conformance with this Ordinance.

In addition, no person shall construct or maintain any sign within 660 feet of the nearest edge of the right-of-way of the interstate or primary highway system without first obtaining a permit from the North Carolina Department of Transportation as required by the North Carolina General Statutes.

## SECTION 11-88 – STRUCTURAL REQUIREMENTS

Structural requirements for signs shall be those requirements found in the North Carolina State Building Code.

## SECTION 11-89 – PROHIBITED SIGNS

The following prohibitions shall apply:

(a) Signs not to Constitute Traffic Hazards - No sign or advertising structure shall be erected or maintained at the intersection of any streets or roads so as to obstruct free and clear vision; or at any location where, by reason of the position, illumination, shape or color, it may impair, obstruct the view or be confused with any authorized traffic sign, signal, or device; o· which makes use of the words "stop", "look", "drive-in", "danger" or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic.

(b) Signs Erected on Public Streets - No sign shall be erected or maintained within any public street right-of-way nor be allowed to extend over into any public street, provided that this section shall not apply to public signs necessary in the performance of a governmental function or required to be posted by law.

(c) Obstruction of Ingress or Egress of Building - No sign shall be erected or maintained that obstructs ingress and/or egress to or from any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress to or from any room or building as required by law.

(d) Obscene Matter Prohibited - No sign shall be erected or maintained which bears or contains statements, words, or pictures of an obscene character.

(e) Signs on Private Property; Consent Required - No sign may be erected by any person on private property of another person without first obtaining the verbal or written consent of such owner.

(f) Mobile Signs - Signs or advertising structures having the capability of being transported from one site to another shall be prohibited.

## SECTION 11-90 – SIGNS PERMITTED IN ALL DISTRICTS

The following signs shall be permitted in all zoning districts:

(a) Directional and Information Signs erected and maintained by public agencies and governmental bodies.

(b) Temporary Real Estate Signs not to exceed twelve square feet in area displayed on the property .proposed for sale or lease and located on private property behind the property line. Such signs may be indirectly illuminated in non-residential districts.

(c) Bulletin Boards – Churches, schools, community centers, and other public and institutional uses may erect one sign or bulletin board not exceeding 12 square feet in area for the purpose of displaying the name of the institution and related information. Such signs shall be· used as wall signs or shall be located a minimum of 12 feet from the street lot line and side lot or property lines. Where side yards are required no such sign shall be permitted in the required side yards. Such signs may be indirectly illuminated.

(d) Temporary Construction Signs which denote the architect, engineer, contractor, or builder of the project or which describe the name and proposed use of the project may be placed on the site until construction is completed.

(e) Identification Signs not to exceed six square feet in display area bearing only addresses or names of occupants of the premises and located on privately owned property.

(f) Memorial Plaques, cornerstones, historical tablets, and similar signs.

(g) Instructional Signs, erected on private property, not to exceed six square feet in display area, erected strictly for the direction, safety or convenience of the public, including signs which identify restrooms, parking area entrances or exits, height entrances and similar devices, warning, danger and no trespassing signs.

## SECTION 11-91 – BUSINESS SIGNS

Business signs and name signs shall be permitted on the premises of the business in districts in which the principal use is permitted subject to the following limitations:

(a) Signs for home occupations shall not exceed four square feet in display area and shall be placed within 10 feet of the entrance door;

(b) Business signs shall not project more than one foot from any building wall or canopy;

(c) If suspended from a canopy, the sign must be at least eight feet above the sidewalk level;

(d) Non-illuminated signs shall have a total surface area in square feet per establishment no greater than two times the street frontage of the lot, in feet, but in no case greater than 150 square feet. Reader boards may be no greater than 20 square feet; *(3/6/90)*

(e) Illuminated signs shall have a total sign surface area in square feet per establishment no greater than two times the street frontage of the lot, in feet, but in no case greater than 100 square feet. Display lighting shall be shielded so as to present a direct view of the light source from a resi-dence in a-residential district. No intermittent lighting effects may be utilized. Reader boards may be no greater than 20 square feet; *(3/16/90)*

(f) Freestanding signs shall be located not less than twelve (12) feet from the street lot line or behind the setback line, whichever is greater. No freestanding sign shall be located in a required side yard or within ten (10) feet of the side property line;

(g) Signs in shopping centers shall be subject to the following limitations:

a. Each shopping center may provide not more than one freestanding sign that displays the name of the shopping center.
b. Detached buildings that are designed to contain no more than one business, may display not more than two business signs;
c. Businesses located in attached buildings may display not more than one business sign.
d.

## *SECTION 11-92 – OUTDOOR ADVERTISING SIGNS*

Outdoor advertising signs are permitted as a conditional use in the Industry district subject to the following limitations:

(a) The maximum size of the display area of outdoor advertising signs shall be 300 square feet for single-face signs and 300 square feet for each face of a double face sign.

(b) They must meet all requirements of the district applying to the principal structures with regard to yards, setbacks, and height requirements. Further, the minimum height of the lowest portion of any display surface shall be elevated to a height of eight feet from the ground level.

(c) Such signs shall not be located within 100 feet of any residential district.

(d) Such signs shall not be permitted within 300 feet of an existing advertising signor structure.

(e) No outdoor advertising sign shall be erected or maintained within 600 feet of the nearest edge of the right-of-way of interstate or primary highways, except as allowed by the North Carolina General Statutes.

(f) Lighting:

1. Display lighting of signs shall be shielded so as to prevent the direction of such light into any structure used primarily for residential purposes.
2. No rotating, revolving or intermittent lighting devices shall be attached to or made a part of, any outdoor advertising sign.

## SECTION 11-93 - FEES

No permit shall be issued until the exact dimensions and area of the sign have been filed with the Zoning Enforcement Officer and the fees posted in the Town Clerk's office paid accordingly. Fees for signs shall be established annually by the Board of Commissioners.

## SECTION 11-94 - MAINTENANCE

All signs, together with all their supports and braces, shall be kept in a state of good repair and in a neat and clean condition. No sign shall be continued which becomes, in the opinion of the Zoning Enforcement Officer, structurally unsafe and endangers the safety of the public or property. The Zoning Enforcement Officer may order the removal of any sign that is not maintained in accordance with the provisions of this section. Such removal shall be at the expense of the owner or lessee and shall occur within ten days after written notification thereof by the Zoning Enforcement Officer. If such order is not complied with in thirty (30) days the Zoning Enforcement Officer shall remove such at the expense of the owner or lessee thereof.

## SECTION 11-95 – MURALS

Decorative murals shall be fully described on the sign permit and shall be in character with their surroundings.

## SECTION 11-96 – NONCONFORMING SIGNS

No non-conforming sign erected before the adoption of this Ordinance shall be moved or replaced, without complying with the provisions of this Ordinance. All signs existing on the effective date of this article which do not conform to the requirements set forth herein shall be removed or brought into compliance within thirty-six months (36) from the effective date hereof; however, a non-conforming business or industry shall, after the three year period, be allowed one sign not exceeding 12 square feet on a side or a total of twenty square feet, which sign shall be affixed to the building and have only non-flashing illumination.

Any nonconforming sign in a non-residential district which is nonconforming only with respect to the sign area requirements shall have five (5) years to conform to the provisions of this Ordinance.

## SECTION 11-97 - SIGNS NOT REQUIRING A PERMIT FROM THE ZONING ENFORCEMENT OFFICER.

**A.** **Types of Signs:** The signs listed below shall not require a permit from the Zoning Enforcement Officer. However, all signs using electrical wiring and connection shall require an electrical permit.

1. **Directional and information signs** erected and maintained by public agencies and governmental bodies;

2. **Quasi-public signs**, not to exceed four (4) square feet in area. Such signs shall only be used for the purpose of stating or calling attention to;

   (a) the name or location of the town, hospital, community center, public or private school, church, synagogue, or other place of worship;

   (b) the name of a place of meeting or an official or civic body such as the Chamber of Commerce, service club, or fraternal organization;

   (c) an event of public interest such as public hearing, rezoning, announcement, general election, church or public meeting; local or county fair; and other similar community activities and campaigns;

   (d) soil conservation, 4-H and similar projects; and zoning and subdivision jurisdiction boundaries;

   (e) political campaigns provided that such signs shall be removed within one week following the election or town staff may be required to remove the signs and charge a fee posted in town hall;

   (f) yard sales providing the signs are posted on the premises where the sales are to be held, not more than one week prior to the sale and removed the day following the sale.

3. **Professional and Home Occupations Signs:**

   (a) one sign per lot not to exceed four (4) square feet attached to the principal structure;

   (b) one sign per lot not to exceed four (4) square feet located at least ten (10) feet from the street line and side property lines. Where side yards are required, no such sign shall be permitted in the required side yards;

   (c) no such signs shall be illuminated in any residential district.

4. **Temporary Subdivision Sign**. Subdivision development signs, not over sixty-four (64) square feet in area which direct attention to the opening of a new subdivision may be erected on the site of such new subdivision. Only indirect illumination with white light will be permitted. Such sign shall be removed when seventy-five (75) percent of the subdivision is sold.

5. **Bulletin Board**. One bulletin board for each school or other public building and for each church, synagogue or place of worship, provided that it is located on the same premises and shall not exceed fifty (50) square feet. Such bulletin board may be free standing or attached. In residential districts, illumination of bulletin boards shall be white, non-flashing lights.

6. **Temporary Signs**.

   (a) **Real Estate:** One (1) temporary real estate sign not exceeding four (4) square feet in area may be place on a property that is for sale, lease, rent, or barter; however, when the

property on which said sign is placed fronts on more than one (1) street, one (1) sign shall be allowed on each street frontage. Such signs shall not be illuminated.

(b) **Other Temporary Advertising Signs:** Temporary advertising signs shall be permitted providing that such signs shall not exceed six (6) square feet in area in residential districts and shall be spaced no closer than 100 feet apart.

(c) **Construction Signs:** One (1) temporary construction sign may be erected on the site during the period of construction or reconstruction to announce the name of the owner and/or developer, the name of the structure and its use or occupants to be, contractor, subcontractor, architect, and engineer; however, when the property on which said sign is placed fronts on more than one (1) street, one (1) sign shall be allowed on each street frontage. Such signs shall be removed when the building has been approved for occupancy by the Zoning Enforcement Officer. Maximum size of construction signs in the residential zone shall be twenty-four (24) square feet; in all other zones, seventy-two (72) square feet.

B. **Setback Requirements for Signs Not Requiring a Building Permit**

Signs which do not require a permit from the Zoning Enforcement Officer shall be set back at least ten (10) feet from any public right-of-way line or property line and shall be setback at least twenty-five (25) feet from any road intersection.

### *SECTION 11-98 - PERMANENT SIGNS FOR SUBDIVISIONS*

One permanent subdivision sign per major entrance is permitted. Exception: if a subdivision name sign is incorporated into gateposts, brick walls, or similar structures making the entrance, the name may appear on both sides of the entrance as a substitute for other subdivision identification signs.

(a) Total area per entrance is sixty-four (64) square feet.
(b) Signs shall be placed on private property no closer than ten (10) feet to any property line.
(c) Illumination is restricted to white indirect lighting.
(d) Content of sign is limited to the name of the subdivision.

### *SECTIONS 11-99 – 11-105- RESERVED.*

## CHAPTER 8 –OFF-STREET PARKING AND LOADING

### *SECTION 11-107 - GENERAL*

Off-street automobile parking or storage space shall be provided on the same lot as the principal use except in the Central Business District and as provided in **Section 10-110.** below at the time or erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area; or before conversion from one type of use or occupancy to another, in the amount specified by this section. Such parking space may be provided in a covered parking structure or properly graded open space.

## SECTION 11-108 - CERTIFICATION OF MINIMUM PARKING REQUIREMENTS

Each application for a building permit or certificate of occupancy submitted to the Building Inspector as provided for in this Ordinance shall include information as to the location and dimensions of off-street parking and loading space and the means of exit and entrance to such space. This information shall be in sufficient detail to enable the Building Inspector to determine whether or not the requirements of this section are being met. The Board of Commissioners may, upon recommendation by the Planning Board, waive parking requirements for the CBD only.

## SECTION 11-109 - JOINT USE OF REQUIRED PARKING SPACES

The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use, except that one-half (1/2) of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.

## SECTION 11-110 - REMOTE PARKING SPACE

If the off-street parking space required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space shall be provided on any lot a substantial portion of which is within five hundred (500) feet of the main entrance of such principal use, provided such land is in the same ownership as the principal use or leased on a long-term basis for the specific purpose to serve as parking space for the aforesaid principal use.

## SECTION 11-111 - IMPROVEMENT AND LOCATION STANDARDS.

a) All off-street parking, including entrances, exits, and maneuvering and parking areas shall:

    1) Have the access drive(s) paved from the existing street paving to a point at least fifteen (15) feet beyond the public right-of-way, except that residential uses requiring less than five spaces shall be exempt from this paving requirement.
    2) Be permanently maintained by the owners.

b) In addition all parking lots that are used regularly at least five days per week, except as provided below, shall be paved up to the required paved driveway. This paving requirement shall not apply to:

    1) Parking lots used only by churches, private clubs, or similar organizations on an irregular schedule, and
    2) Parking lots for residential uses where less than five spaces are required.

c) A strip of land five (5) feet wide adjoining any street line or any zoned for residential uses shall be preserved as open space, guarded with wheel bumpers and planted in shrubbery.

## SECTION 11-112 - MINIMUM OFF-STREET PARKING REQUIREMENTS

Off-street parking space shall be provided with vehicular access to a street or alley; such use shall not thereafter be encroached upon or altered; shall provide a minimum space of 20 feet in length and 9 feet in width; and shall be equal in number to at least the minimum requirements for the specific uses set forth below:

| Use Classification | Parking Space Requirements |
|---|---|
| **Auditorium or Theater** | One (1) space for each staff member and employee, plus one (1) space for each four (4) seats in the largest assembly area. |
| **Banks** | One (1) parking space for each two hundred square feet of gross floor space plus one (1) space for each two (2) employees. |
| **Bowling Alley** | Three (3) spaces per alley plus requirements for any other use associated with the establishment such as a restaurant, etc. |
| **Church** | One (1) space for each staff member and employee, plus one (1) space for each four (4) seats in the main chapel. |
| **Club or Lodge** | One (1) space for each two hundred (200) square feet of gross floor space. |
| **Golf Courses** | Four (4) spaces for each hole plus requirements for any other use associated with the golf course (restaurant, etc.). |
| **Home Occupation** | In addition to residence requirements one (1) parking space per five hundred (500) square feet of floor space devoted to the home occupation use. |
| **Hospital, Health Care or Health Services Facilities or Nursing Home** | One (1) parking space for each two (2) beds plus one (1) space for each two (2) employees (nurses, attendants, etc.) plus one (1) space for each staff or visiting doctor. |
| **Hotel** | One (1) space for each room to be rented plus one additional space for each two (2) employees. |
| **Industrial or Manufacturing** | One (1) space for each one (1) employees on the largest shift plus one space for each company vehicle. Additional parking for visitors to be provided equal to five (5) percent of the employee Parking spaces when there are 40 or more employees. |
| **Establishment or Warehouse** | One (1) parking space for each ten (10) managerial personnel, one (1) visitor parking space for each vehicle used directly in the conduct of the business. |
| **Kindergarten or Nursery** | One (1) space for each staff member and employee and one (1) space for each five (5) students and four (4) spaces for off-street drop-off and pick-up. |
| **Library** | One (1) space for each three (3) seats provided for patron use. |
| **Medical and Dental Offices** | Five (5) spaces for each physician or dentist practicing at the clinic, plus one (1) space for each employee. |
| **Mortuary or Funeral Home** | One (1) space for each four (4) seats in the assembly room or chapel. |
| **Motel, Motor Court or Tourist Home** | One (1) space for each unit plus one (1) space for each two (2) employees plus requirements for any other use associated with the establishment. |
| **Offices, Business and Public** | One (1) space for each two hundred (200) square feet of floor area. |
| **Offices, Professional** | One (1) parking space for each employee plus three (3) spaces for each professional member of the staff. |

| Use Classification | Parking Space Requirements |
|---|---|
| **Restaurant, Cafe, Tavern or other Place Serving Food and Drink** | One (1) space for each three (3) seats plus one (1) space for each two (2) employees. |
| **Restaurant, Drive-In** | One (1) space for each three (3) seats plus a minimum of fifteen (15) spaces for drive-in service plus one (1) space for each two (2) employees. |
| **Rooming and Boarding** | One (1) space for each guest room, plus one (1) space for each two (2) employees and owners. |
| **Retail Uses Not Otherwise** | One (1) parking space for space for each one hundred (100) square feet of gross floor area. |
| **School, Elementary and Jr. High** | One (1) space for each classroom and administrative office plus adequate facilities for school parking and convenient loading and unloading of students. |
| **Service Station** | Five (5) spaces for each lubrication rack and two (2) spaces for each gas pump. |
| **Shopping Center** | One (1) parking space for every one hundred (100) square feet of overall floor area. |
| **Multi-Family Residence** | One and one-half (1 1/2) spaces for each dwelling unit. |
| **Single Family Residence and Duplex** | Two (2) spaces for each dwelling unit. |
| **Stadium** | One (1) space for each four (4) seats. |

Special situations which are not covered by the above shall be handled by the Board of Adjustment. In such cases the Board of Adjustment shall make the final determination as to the number of spaces to be required, but shall in all cases give due consideration to the needs and space available, and shall classify the proposed use in one of the categories listed above.

## *SECTION 11-113 – OFF-STREET LOADING AND UNLOADING*

a) **Off-street loading and unloading space requirements:** Every building or structure used for business, trade, or industry hereafter erected, shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have adequate access to an alley or in the absence of an alley, a public street. For the purposes of this section, an off-street loading space shall have minimum dimensions of twelve (12) feet by fifty (50) feet exclusive of adequate access drives and maneuvering space, and overhead clearance of fifteen (15) feet in height above the alley or street grade. A loading space requirement may be modified or waived by the Board of Adjustment on application in the case of a bank, auditorium, theater, assembly hall, or other building of similar limited space requirement.

b) **Number of required off-street loading spaces:**

| Number of Square Feet of Gross Floor Area | Required Spaces |
|---|---|
| 0 - 25,000 | 1 |
| 25,001 - 40,000 | 2 |
| 40,001 - 100,000 | 3 |
| 100,001 - 160,000 | 4 |
| 160,001 - 240,000 | 5 |
| 240,001 - 320,000 | 6 |
| 320,001 - 400,000 | 7 |
| Each 90,001 above 400,000 | 1 additional |

## SECTION 11-114 – 11-115 - RESERVED

# CHAPTER 9 –MANUFACTURED HOME PARKS.

## *SECTION 11-116 - GENERAL*

Manufactured Home Parks are a conditional use in the R-MH and A-R districts of the Town of Red Springs. Existing manufactured home parks are considered prior existing non-conforming uses as discussed in **Chapter 4** of this Title with some exceptions. Existing mobile home parks will be allowed to continue operation only by complying with the standards outlined in **Section 11-119.**

## *SECTION 11-117 - PERMITS*

a) It shall be unlawful for any person to maintain or operate a manufactured home park within the jurisdiction of this ordinance unless such person shall first obtain from the Board of Commissioners a Manufactured Home Park Operating Permit as described below.

b) The Manufactured Home Park Operating Permit shall be issued and subsequently renewed if the Town finds that all the provisions of this ordinance are being met.

c) No Manufactured Home Park Operating Permit shall be issued for any manufactured home park until the compliance plan has been approved by the Board of Commissioners.

d) A Temporary Manufactured Home Park Operating Permit, valid for six (6) months shall be issued by the Zoning Officer permitting an existing park to be maintained and operated while the compliance plan is being prepared.

e) No person shall make any additions to a manufactured home park that alters the number of sites for manufactured homes within the park without the express permission of the Board of Commissioners. In addition, no person shall make any alteration to a park that affects the facilities required therein until he first secures a Business License authorizing such alteration.

## *SECTION 11-118 - PROCEDURE*

a) Once a Temporary Manufactured Home Park Operating Permit has been issued, a park owner will have a six-month period to develop and submit a park compliance plan to the Board of Commissioners.

b) The Park Compliance Plan shall show how the park presently complies or will, within a three-year period, comply with all standards listed in **§11-119**.

c) Once the Park Compliance Plan is approved by the Board of Commissioners, the park owner will be issued a Manufactured Home Park Operating Permit, which is valid for three years. Six months prior to its expiration, the park owner will receive notice that the Manufactured Home Park Operating Permit must be renewed.

d) If no compliance plan is submitted, the park owner shall be considered to have chosen not to comply with the standards set forth in **§11-119**, and will be considered to have chosen the alternative of ceasing operation upon the expiration of his Temporary Manufactured Home Park Operating Permit.

e) Upon recommendation by the Planning Board, the Board of Commissioners may waive an operating standard if the Board determines it infeasible for the operator.

## *SECTION 11-119 - OPERATING STANDARDS FOR MANUFACTURED HOME PARKS EXISTING AT THE TIME OF ADOPTION OF THIS ORDINANCE.*

a) Underpinning. All manufactured homes within a Manufactured Home Park shall be underpinned.

b) Utilities. The manufactured home park and all occupied units located in it must be connected to the municipal water and sewerage systems or other systems approved by the Robeson County Health Department or the North Carolina Division of Health Services and the North Carolina Division of Water Quality. Each manufactured home park space shall have hook-up facilities for water, sewer, electricity, and telephone services. All occupied manufactured home units shall have and use sanitary facilities within the manufactured home unit.

c) Other Permitted Uses. Service buildings, recreation buildings, and other areas or structures providing laundry, sanitation and managerial facilities are permitted and shall serve only the park in which they are located. No such facility shall have direct access to a public street but shall be served by the privately maintained roadway.

d) Screening and Landscaping. The manufactured home park shall have a screening strip of plant material adjacent to and within the park boundary extending along the entire perimeter of the park. This requirement may be waived by the Town Board of Commissioners upon the recommendation of the Planning Board along any boundary which is naturally screened by evergreen plant materials or topography. Screening strips shall not be a portion of any manufactured home space, street, or private drive. The park shall be completely screened at a height of four (4) to six (6) feet from the view of adjacent properties. Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed.

e) One Manufactured Home Per Space. No more than one (1) manufactured home may be parked on any manufactured home space.

f) Common Recreation Space. At least eight percent (8%) of the total gross acreage of the park shall be reserved and developed as a common recreation space for the residents of the park. This recreation space shall be identified on all plans and approved by the Planning Board and the Town Board of Commissioners. Such areas shall be adequately lighted for safety.

g) Parking. Parking spaces sufficient to accommodate at least two (2) automobiles shall be constructed within each manufactured home space and they shall be graveled or covered with four (4) inches of crushed stone.

h) TieDown and Anchoring Requirements. Mobile homes shall be securely anchored to the ground by means of a tie down system. When the mobile home is factory equipped with a tie down system designed by a registered architect or engineer, then the owner is to use the manufacturer's set of instructions as the standard of proper tie-down procedures. If no such set of instructions is available or if the system has not been designed by a licensed architect or engineer, then the Administrative Official is to enforce standards listed in the "State of North Carolina Regulations for Mobile Homes" booklet published by the North Carolina Department of Insurance.

i) Storage Buildings. Each mobile home lot may be equipped with storage building not to exceed ten feet by ten feet (10 ft. x 10 ft.) provided that all such buildings are located adjacent to the rear lot line.

j) Storage of Possessions. Storage of possessions and equipment in the area beneath a mobile home shall be prohibited.

## SECTION 11-120 - OPERATING STANDARDS FOR NEW MANUFACTURED HOME PARKS

a) Area. The lot area of the manufactured home park shall be a minimum of two acres.

b) Density. There shall be a maximum of four (4) manufactured homes per acre.

c) Utilities. The manufactured home park and all occupied units located in it must be connected to the municipal water and sewerage systems or other systems approved by the Robeson County Health Department or the North Carolina Division of Health Services and the North Carolina Division of Water Quality.

d) Dimensional Requirements. The following dimensional requirements will be met:

| | **Dimension Required** |
|---|---|
| **Minimum mobile home park area** | Two acres |
| **Minimum park width** | 100 feet |
| **Maximum density** | 4 units per acre |
| **Minimum size of manufactured home space:** | |
| **Single-wide** | 6,500 square feet |
| **Double-wide** | 7,500 square feet |
| **Minimum Setbacks (any attached structure, such as room extensions, porches, carports, etc. shall be considered to be part of the manufactured home)** | |

| | Dimension Required |
|---|---|
| **Front Yard** | 25 feet |
| **Side Yard** | 10 feet |
| **Rear Yard** | 25 feet |
| **Maximum Building Height** | 40 feet |

e) Other Permitted Uses. Service buildings, recreation buildings, and other areas or structures providing laundry, sanitation and managerial facilities are permitted and shall serve only the park in which they are located. No such facility shall have direct access to a public street but shall be served by the privately maintained roadway.

f) Access and Parking. Paved or gravel, privately maintained roadways must be provided for access to individual units and other facilities located within the park. No manufactured home shall have direct access to a public street.

g) Screening and Landscaping. The manufactured home park shall have a buffer strip of ever-green material adjacent to and within the park boundary extending along the entire perimeter of the park. This requirement may be waived by the Board of Commissioners upon the recommendation of the Planning Board along any boundary which is naturally screened by evergreen plant materials or topography. Buffer strips shall not be a portion of any manufactured home space, street, or private drive. The park shall be completely screened at a height of six (6) feet from the view of adjacent properties. The width of this buffer shall not be less than three (3) feet. Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed.

h) One Manufactured Home Per Space. No more than one (1) manufactured home may be parked on any manufactured home space.

i) Common Recreation Space. At least eight percent (8%) of the total gross acreage of the park shall be reserved and developed as a common recreation space for the residents of the park. T The minimum size of any recreation area shall be 2,500 square feet. Lakes, ponds, rivers, streams, swamps, and marsh lands shall not be considered as meeting, in part or in whole, the recreation area requirements of this section. This recreation space shall be identified on all plans and approved by the Planning Board and the Board of Commissioners. Such areas shall be adequately lighted for safety.

## *SECTION 11-121 - MANUFACTURED HOME PARKS SPACE REQUIREMENTS (APPLIES TO NEW MANUFACTURED HOME PARKS ONLY).*

a) Access. Each space shall have access to an interior roadway with a width of at least 18 feet. No space shall have direct access to a public street.

b) Clearance. Each space shall be designed so that at least 20 feet clearance will be maintained between units and other structures within the park.

c) Setbacks. Manufactured home units shall be located so that at a 25-foot setback is maintained from the centerline of the private interior roadway.

d) Minimum Size. A single-wide manufactured home space shall consist of a minimum of 6,500 square feet - 7,500 square feet for double-wide homes.

e) Parking. Parking spaces sufficient to accommodate at least two (2) automobiles shall be constructed within each manufactured home space and they shall be graveled or covered with four (4) inches of crushed stone.

f) Grading. Each manufactured home space shall be graded and graded areas grassed to prevent erosion and provide adequate storm drainage away from the manufactured home.

g) Utilities. Each space shall have hook-up facilities for water, sewer, electricity, and telephone services. All occupied manufactured home units shall have and use sanitary facilities within the manufactured home unit.

## SECTION 11-122 - ADDITIONAL REQUIREMENTS.

Within a reasonable time (not to exceed six months) after being located in a manufactured home park, each manufactured home shall be underpinned with materials and in a manner approved by the administrative officer.

## SECTION 11-123 - APPLICATION PROCEDURE FOR CONDITIONAL USE PERMIT FOR A MOBILE HOME PARK.

a) **Preliminary Plan: A preliminary plan drawn to a scale of not less than 1" = 200' nor more** than 1" = 50 may be submitted to the Board of Commissioners prior to application for a permit. The sketch plan should include among other things:

1. location of drives and parking areas;
2. location of manufactured home spaces;
3. location and sizes of service buildings and other service area;
4. topography and contours in areas where major grading will occur; and
5. location, type and size of water supply and sewage systems.

The owner and developer may discuss the proposed manufactured home park plan with the Zoning Enforcement Officer to determine if the proposal meets the requirements and intent of this Ordinance.

b) **Final Plan**: Applications to the Board of Commissioners for a conditional use permit to construct, alter, or enlarge a mobile home park shall be accompanied by a plan for the park, prepared by a registered engineer or architect, drawn to a scale of not less than 1" = 200' nor more than 1' = 50'. Three copies shall be submitted. The plan shall show the following:

1. locations of manufactured home spaces;
2. drives, parking areas, walks, and access to a public street;
3. the name of the manufactured home park, the name(s) and the addresses of the owner(s), the developer if applicable and the designer of the park.
4. date, scale, and approximate North arrow;
5. location and uses of any proposed buildings and building lines;
6. proposed storm drainage plan for the entire manufactured home park;
7. location and dimensions of all recreation areas, open spaces and parks.

c) When public water or public sewer is not available, a written statement from the County Health Department shall be submitted with the manufactured home park plan indicating that the manufactured home park has adequate land area and suitable topography and soils to accommodate the proposed methods of water supply and sewage disposal.

d) Where a park is to be developed in sections, the plan shall show which part is to be developed initially. No permit shall be issued for the initial establishment of any section of a manufactured home park with less than 5 spaces.

## SECTION 11-124 - CERTIFICATE OF OCCUPANCY

When the developer of the manufactured home park is satisfied that construction has been completed in accordance with the terms of the conditional use granted by the Board of Commissioners, certification of the completion shall be made, and the site shall be inspected by the Zoning Enforcement Officer or his representative. After completion of the manufactured home park in compliance with the approved plan and other application regulations has been ascertained, the Certificate of Occupancy shall be issued by the Zoning Enforcement Officer.

The manufactured home park shall be maintained in compliance with the terms of the conditional use permit. In the event of violation of the conditional use permit, the Certificate of Occupancy may be revoked for a specific section of a manufactured home park which is in violation or for the manufactured home park in its entirety if necessary.

## SECTION 11-125 – RESPONSIBILITIES AND DUTIES OF PARK OPERATORS

(a) Mobile Home Park Maintenance. Mobile home park operators shall be required to provide adequate supervision to maintain the park in compliance with the requirements of this

(b) Ordinance. Further, the mobile home park operators shall keep all park owned facilities, improvements, equipment and all common areas in good repair and maintained in such a manner as to prevent the accumulation or storage of materials which would constitute a fire hazard or would cause insect or rodent breeding and harborage.

(c) Placement and Anchoring. Operators shall be required to supervise the placement of all mobile homes to guarantee that they are properly anchored and attached to utilities.

(d) Assist County Tax Supervision. Operators shall be required to comply with G.S. 105-316(a) (l), which requires that as of January 1 of each year each operator of a park renting lots for six (6) or more mobile

homes furnish to the county tax supervisor the name of the owner of and a description of each mobile home located in the park.

(e) Solid Waste Disposal. The park operator will operate or provide for the operation of a solid waste disposal system, including providing park tenants with appropriate containers.

## SECTION 11-126 - ANNUAL INSPECTIONS OF MANUFACTURED HOME PARKS

The Robeson County Health Department and Red Springs Zoning Enforcement Officer may conduct as many inspections of mobile home parks as deemed necessary to insure the maintenance of applicable standards. The operators of mobile home parks in the town shall once a year pay an annual inspection fee as posted in the Town Clerk's Office and the Certificate of Occupancy may be revoked if the fee is not paid.

## SECTIONS 11-127- 11-130 - RESERVED

# CHAPTER 10 – WIRELESS COMMUNICATION FACILITIES

## SECTION 11-131. – PURPOSE AND LEGISLATIVE INTENT.

The purpose of this Wireless Telecommunications Ordinance is to provide for the public health, safety and welfare by ensuring that residents, businesses and public safety operations in the Town of Red Springs have reliable access to telecommunications networks and state of the art mobile broadband communications services while also ensuring that this objective is accomplished according to [Jurisdiction's] zoning, planning and design standards. To accomplish the above stated objectives and to ensure that the placement, construction or modification of wireless telecommunications facilities complies with all applicable federal laws, including without limitation Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, 47U.S.C. 1455(a), which, among other things, creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, the Town of Red Springs adopts this single, comprehensive wireless telecommunications ordinance. By enacting this Ordinance it is the town's intent to ensure Red Springs has sufficient wireless infrastructure to support its public safety communications throughout the Town of Red Springs and to ensure access to reliable wireless communications services throughout all areas of the Town.

## SECTION 11-132. – DEFINITIONS.

For the purposes of this Ordinance, the following definitions apply:

Abandonment – Cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this ordinance.

Accessory Equipment - Any equipment serving or being used in conjunction with a wireless facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

Administrative Approval - Approval that the [Code Administrator] or designee is authorized to grant after administrative review.

Administrative Review - Non-discretionary evaluation of an application by the [Code Administrator] or designee. This process is not subject to a public hearing. The procedures for administrative review are established in Section IV. of this Ordinance. Antenna - Communications equipment that transmits, receives or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Base Station - A station at a specific site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics. Carrier on Wheels or Cell on Wheels (COW) - A portable self-contained wireless facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

Collocation - The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes.

Concealed Wireless Facility - Any wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not readily apparent to a casual observer.

Electrical Transmission Tower - An electrical transmission structure used to support high voltage overhead power lines. The term shall not include any utility pole.

Eligible Facilities Request – A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Equipment Compound - An area surrounding or near the base of a wireless support structure within which are located wireless facilities.

Existing Structure - A wireless support structure, erected prior to the application for an eligible facilities request, collocation or substantial modification under this ordinance that is capable of supporting the attachment of wireless facilities. The term includes but is not limited to, electrical transmission towers, buildings and water towers. The term shall not include any utility pole.

Fall Zone - The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Monopole – A single, freestanding pole-type structure supporting one or more antennas. For the purposes of this Ordinance, a monopole is not a tower or a utility pole.

Ordinary Maintenance - Ensuring that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color and accessory equipment within an existing equipment compound and relocating the antennas to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include substantial modifications.

Replacement Pole – Pole of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation. Requires removal of the wireless support structure it replaces.

Substantial Modification - The mounting of a proposed wireless facility or wireless facilities on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:

(i) increases the existing vertical height of the wireless support structure by (a) more than ten percent (10%), or (b) the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater;

(ii) adds an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure more than twenty (20) feet, or more than the width of the wireless support structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable);

(iii) increases the square footage of the existing equipment compound by more than 2,500 square feet.

Tower - A lattice-type structure, guyed or freestanding, that supports one or more antennas.

Utility Pole - A structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

Water Tower - A water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

Wireless Facility or Wireless Facilities - The set of equipment and network components, exclusive of the underlying wireless support structure, including, but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling and associated equipment necessary to provide wireless telecommunications services.

Wireless Support Structure - A freestanding structure, such as a monopole or tower, designed to support wireless facilities. This definition does not include utility poles.

## *SECTION 11-133. – APPROVALS REQUIRED FOR WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES.*

(a) **Administrative Review and Approval.** The following types of applications are subject to the review process as provided in Section 11-134. No other type of zoning or site plan review is necessary:

(1) New wireless support structures that are less than sixty (60) feet in height, in any zoning district;

(2) New wireless support structures that are less than two hundred (200) feet in height, in any Industrial District;

(3) Concealed wireless facilities that are sixty (60) feet or less in height, in any residential district;

(4) Concealed wireless facilities that are one hundred fifty (150) feet or less in height, in any zoning district except residential districts;

(5) Monopoles or replacement poles located on public property or within utility easements or rights-of-way, in any zoning district;

(6) COWs, in any zoning district, if the use of the COW is either not in response to a declaration of an emergency or disaster by the Governor, or will last in excess of one hundred-twenty (120) days;

(7) Substantial modifications;

(8) Collocations.

(b) **Conditional Use Permit.** Any application for wireless facilities and/or wireless support structures not subject to administrative review and approval pursuant to this Ordinance shall be permitted in any district upon the granting of a conditional use permit from the Board of Adjustment in accordance with the standards for granting conditional use permits set forth in applicable the Town of Red Springs ordinances.

(c) **Exempt from All Approval Processes.** The following are exempt from all the Town of Red Springs zoning approval processes and requirements:

(1) Removal or replacement of transmission equipment on an existing wireless tower or base station that does not result in a substantial modification as defined in this ordinance.

(2) Ordinary maintenance of existing wireless facilities and wireless support structures, as defined in this Ordinance;

(3) Wireless facilities placed on utility poles; and

(4) COWs placed for a period of not more than one hundred twenty (120) days at any location within the town or after a declaration of an emergency or a disaster by the Governor.

## SECTION 11-134. – ADMINISTRATIVE REVIEW AND APPROVAL PROCESS.

(a) **Content of Application Package-For New Sites**. All administrative review application packages must contain the following:

(1) Administrative review application form signed by applicant;

(2) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue application. Such submissions need not disclose financial lease terms; and

(3) Site plans detailing proposed improvements which complies with [Jurisdiction's existing site plan requirements]. Drawings must depict improvements related to the applicable requirements including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements.

(4) Documentation from a licensed professional engineer of calculation of the fall zone and certification that the wireless support structure has sufficient structural integrity to accommodate the required number of additional users as provided in this ordinance.

(b) **Content of Application Package-For Other Sites/Facilities.** All administrative review application packages must contain the following:

(1) Administrative review application form signed by applicant;

(2) For collocations and substantial modifications, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas.

(3) For substantial modifications, drawings depicting the improvements along with their dimensions.

(c) **Fees**. The total fees for reviewing an administrative review application shall;

(1) In the case of an application for collocation, a monopole or replacement pole, a concealed wireless facility, a non-exempt COW or a substantial modification, the lesser of [Jurisdiction's] actual, direct costs (including third-party costs such as consultants fees) incurred for the review, or $500.00; and

(2) In the case of an application for a new wireless support structure subject to administrative review and approval, the lesser of the town's actual, direct costs incurred for the review (including third-

party costs such as consultants fees), or $1,500.00. Applications for new wireless support structures with proposed wireless facilities shall be considered together as one application requiring only a single application fee. An applicant for administrative review shall submit an initial deposit of $500.00 toward the fees to be paid under this section of the Ordinance.

(d) **Procedure and Timing.**

(1) **Applications for Collocation, Monopole or Replacement Pole, Concealed Wireless Facility, Non-exempt COW or Substantial Modification.** Within thirty (30) days of the receipt of an application for a collocation, a monopole or replacement pole, a concealed wireless facility, a non-exempt COW or a substantial modification, the [Code Administrator] will:

(a) Review the application for conformity with this Ordinance. An application under this Section IV.D.1 is deemed to be complete unless the [Code Administrator] notifies the applicant in writing, within ten (10) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take ten (10) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within ten (10) calendar days, the application shall be reviewed and processed within thirty (30) calendar days from the initial date the application was received. If the applicant requires a period of time beyond ten (10) calendar days to cure the specific deficiencies, the thirty (30) calendar days deadline for review shall be extended by the same period of time;

(b) Make a final decision to approve the collocation application or approve or disapprove other applications under his Section D (1); and

(c) Advise the applicant in writing of its final decision. If the [Zoning Authority] denies an application, it must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Ordinance.

(d) Failure to issue a written decision within thirty (30) calendar days shall constitute an approval of the application.

(2) **Applications for New Wireless Support Structures That Are Subject to Administrative Review and Approval**. Within forty five (45) calendar days of the receipt of an application for a new wireless support structure that is subject to administrative review and approval under this Ordinance, the [Code Administrator] will:

(a) Review the application for conformity with this Ordinance. An application under this Section IV.D.2 is deemed to be complete unless the [Code Administrator] notifies the applicant in writing, within fifteen (15) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take fifteen (15) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within fifteen (15) calendar days, the application shall be reviewed and processed within forty five (45) calendar days from the initial date the application was received. If the applicant requires a period of time beyond fifteen (15)

calendar days to cure the specific deficiencies, the forty five calendar days deadline for review shall be extended by the same period of time;

(b) Make a final decision to approve or disapprove the application; and

(c) Advise the applicant in writing of its final decision. If the [Zoning Authority] denies an application, it must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Ordinance.

(d) Failure to issue a written decision within forty five (45) calendar days shall constitute an approval of the application.

(3) **Building Permit.** A Building Inspector shall issue a building permit following approval of the application under administrative review in accordance with the process and standards in this Ordinance.

## SECTION 11-135. – CONDITIONAL USE PERMIT PROCESS.

(a) Any wireless facility or wireless support structures not meeting the requirements of Section III.A or III.C above, may be permitted in all zoning districts upon the granting of a Conditional Use Permit, subject to:

(1) The submission requirements of Section V.B below; and

(2) The applicable standards of Section VI below; and

(3) The requirements of the conditional use permit general conditions at Code Section ___. [Insert cross reference to Jurisdiction code section that establishes general conditions applicable to conditional use permits]

(b) Content of Conditional Use Permit Application Package. All conditional use permit application packages must contain the following:

(1) Conditional use permit application form signed by applicant;

(2) Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue zoning application. Such submissions need not disclose financial lease terms;

(3) Written description and scaled drawings of the proposed wireless support structure or wireless facility, including structure height, ground and structure design, and proposed materials;

(4) Number of proposed antennas and their height above ground level, including the proposed placement of antennas on the wireless support structure;

(5) Line-of-sight diagram or photo simulation, showing the proposed wireless support structure set against the skyline and viewed from at least four (4) directions within the surrounding areas;

(6) A statement that the proposed wireless support structure will be made available for collocation to other service providers at commercially reasonable rates, provided space is available and consistent with Section VI(A)(1)(a) of this Ordinance; and

(7) Notification of surrounding property owners and posting as required by this Code.

(c) Fees. The total fees for reviewing a conditional use permit application shall be the lesser of the Town's actual, direct costs (including third-party costs such as consultant's fees) incurred for the review, or $3,000.00. Applications for new wireless support structures with proposed wireless facilities shall be considered together as one application requiring only a single application fee. An applicant for administrative review shall submit an initial deposit of $1,000.00 toward the fees to be paid under this section of the Ordinance.

(d) Procedure and Timing. Within one hundred fifty (150) calendar days15 of the receipt of an application under Section V. of this Ordinance, the [Code Administrator] will:

(1) Complete the process for reviewing the application for conformity with ordinances applicable to conditional use permits, including conducting a hearing in accordance with [insert Jurisdiction's relevant hearing rules]. An application under this Section V. is deemed to be complete unless the [Code Administrator] notifies the applicant in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take thirty (30) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within thirty (30) calendar days, the application shall be reviewed and processed within one hundred fifty (150) calendar days from the initial date the application was received. If the applicant requires a period of time beyond thirty (30) calendar days to cure the specific deficiencies, the one hundred fifty (150) calendar days deadline for review shall be extended by the same period of time;

(2) Make a final decision to approve or disapprove the application; and

(3) Advise the applicant in writing of its final decision. If the [Zoning Authority] denies an application, it must provide written justification of the denial.

(4) Failure to issue a written decision within one hundred fifty (150) calendar days shall constitute an approval of the application.

## SECTION 11-136. – GENERAL STANDARDS AND DESIGN REQUIREMENTS.

(a) Design

(1) Wireless support structures shall be subject to the following:

(a) Shall be engineered and constructed to accommodate a minimum number of collocations based upon their height:

(i) Support structures sixty (60) to one hundred (100) feet shall support at least two (2) telecommunications providers;

(ii) Support structures greater than one hundred (100) feet but less than one hundred-fifty feet (150) shall support at least three (3) telecommunications providers;

(iii) Support structures greater than one hundred-fifty (150) feet in height shall support at least four (4) telecommunications carriers.

(b) The equipment compound area surrounding the wireless support structure must be of sufficient size to accommodate accessory equipment for the appropriate number of telecommunications providers in accordance with Section VI (A) (l) (a).

(2) Concealed wireless facilities shall be designed to accommodate the collocation of other antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.

(3) Upon request of the applicant, the [Zoning Board or Code Administrator] may waive the requirement that new wireless support structures accommodate the collocation of other service providers if it finds that collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer antennas will promote community compatibility.

(4) A monopole or replacement pole shall be permitted within utility easements or rights-of-way, in accordance with the following requirements:

(a) The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.

(b) The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.

(c) The height of the monopole or replacement pole may not exceed by more than thirty (30) feet the height of existing utility support structures.

(d) Monopoles and the accessory equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.

(e) Single carrier monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by Subsection (c) above.

(f) Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to twenty (20) feet above the height of the utility tower.

(b) **Setbacks**

(1) Unless otherwise stated herein, each wireless support structure shall be set back from all property lines a distance equal to its engineered fall zone.

(c) **Height**

(1) In residential districts, wireless support structures shall not exceed a height equal to one hundred ninety-nine (199) feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the [Zoning Board] shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request the applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the [Zoning Board].

(d) **Aesthetics**

(1) Lighting and Marking. Wireless facilities or wireless support structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

(2) Signage. Signs located at the wireless facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signage that is approved for other uses on property on which wireless facilities are located (e.g., approved signage at locations on which concealed facilities are located).

(e) **Accessory Equipment**. Accessory equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the wireless facility or wireless support structure. Any equipment not used in direct support of such operation shall not be stored on the site.

(f) **Fencing**

(1) Ground mounted accessory equipment and wireless support structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the [Zoning Board] or [Code Administrator].

(2) The [Zoning Board or Code Administrator] may waive the requirement of Section VI.F.1 if it is deemed that a fence is not appropriate or needed at the proposed location.

## SECTION 11-137. – MISCELLANEOUS PROVISIONS.

(a) Abandonment and Removal. If a wireless support structure is abandoned, and it remains abandoned for a period in excess of twelve (12) consecutive months, the Town of Red Springs may require that such wireless support structure be removed only after first providing written notice to the owner of the wireless support structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the wireless support structure within sixty (60) days of receipt of said written notice. In the event the owner of the wireless support structure fails to reclaim the wireless support structure within the sixty (60) day period, the owner of the wireless support structure shall be required to remove the same within six (6) months thereafter. The Town of Red Springs shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.

(b) Multiple Uses on a Single Parcel or Lot. Wireless facilities and wireless support structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

## SECTION 11-138. – WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES IN EXISTENCE ON THE DATE OF ADOPTION OF THIS ORDINANCE.

(a) Wireless facilities and wireless support structures that were legally permitted on or before the date this Ordinance was enacted shall be considered a permitted and lawful use.

(b) Activities at Non-Conforming Wireless Support Structures. Notwithstanding any provision of this Ordinance:

(1) Ordinary maintenance may be performed on a non-conforming wireless support structure or wireless facility.

(2) Collocation of wireless facilities on an existing non-conforming wireless support structure shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure and/or use and shall be permitted through the administrative approval process defined in Section IV; provided that the collocation does not substantially modify the size of the equipment compound at that location or otherwise substantially modify the existing non-conformity.

(3) Substantial modifications may be made to non-conforming wireless support structures utilizing the conditional use permit process defined in Section V of this Ordinance.

### SECTIONS 11-139. – 11-145. – RESERVED.

## CHAPTER 11 – CONDITIONAL USES

### SECTION 11-146. - PURPOSE

The development and execution of this ordinance is based on the division of the Town of Red Springs into districts within which the use and location of land and buildings are substantially uniform. As can be seen from the tables contained in each district description under this *Title*, there are uses which are permitted by right, designated by a "P". This Ordinance also recognizes and allows some uses in these districts as a "conditional" use. Conditional uses are land uses which are basically in keeping with the intent and purposes of the district, but which may have an impact on the area around them which can only be determined by review of the specific proposal. These uses may be established, under certain conditions and with proper controls, in such a manner as to minimize any adverse effects. In order to insure that these uses, in their proposed locations, would be compatible with surrounding development and in keeping with the purposes of the district in which they are located, their establishment shall not be as a matter of right, but only after review and approval of a Conditional Use Permit preceded by a Public Hearing.

Recognizing the specific nature of some uses within certain district, those uses shall be subject to the Supplemental Regulations contained in this Ordinance under *Title 4*.

### SECTION 11-147. - APPLICATION FOR CONDITIONAL USE

Applications for Conditional Use Permits, signed by the applicant, shall be addressed to the Board of Commissioners. A fee as posted in the Town Clerk's office shall be paid to the Town of Red Springs for each application to cover the costs of advertising and administrative costs. Each application shall contain or be accompanied by such legal descriptions, maps, site plan, plans and other information so as to completely describe the proposed use and existing conditions. The Code Administrator shall notify the Planning Board Chairman of the application upon receipt.

(a) A conditional use permit application shall be filed with the Code Administrator at least twenty (20) calendar days prior to the meeting at which the application will be heard.
(b) No application shall be deemed complete unless it contains or is accompanied by a site plan drawn to scale.
(c) One (1) hard copy of the application, and all attachments and maps, for a conditional use permit shall be submitted to the Code Administrator.
(d) The applicant shall provide to the Code Administrator a list of names and addresses of all adjacent property owners, at least eight (8) days prior to the public hearing. The Code Administrator shall then mail a copy of the legal notice to each adjacent property owner.

## SECTION 11-148. - ACTION BY THE PLANNING BOARD

The Planning Board shall review the application. The Planning Board shall approve, modify or deny the application for Conditional Use Permit following the hearing.

(a) The Planning Board may, in its review, suggest reasonable conditions to the location, nature, and extent of the proposed use and its relationship to surrounding properties, parking areas, driveways, pedestrian and vehicular circulation systems, screening and landscaping, timing of development, and any other conditions the Planning Board may find appropriate. The conditions may include dedication of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.

(b) The Planning Board may not, however, in accordance with NC Gen Stat. §160A-381 apply conditions on building design elements for any structure subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings, unless voluntarily consented to by the owners, except under one or more of the following instances:

(1) The structures are located in an area designated as a local historical district pursuant to Part 3C of Article 19 of Chapter 160A of the General Statutes.

(2) The structures are located in an areas designated as a historic district on the National Register of Historic Places.

(3) The structures are individually designated as local, State, or national historic landmarks.

(4) The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.

(5) Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160A-383.1 and federal law.

(6) Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

(c) For the purposes of subsection (b) above, the phrase “building design element” means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase “building design element” does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot; (ii) the use of buffering or screening to minimize visual impacts of light and noise, or to protect the privacy of neighbors; or (iii) regulations adopted pursuant to NC Gen Stat. §160A-381 governing the permitted uses of land or structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) The Planning Board shall forward its recommendation to the Town Board within 45 days of reviewing the application. If a recommendation is not made within 45 days, the application shall be forwarded to the Town Council without a recommendation from the Planning Board.

(e) All comments prepared by the Planning Board shall be submitted by a Planning Board representative to the Town Council as evidence at the public hearing required by this section. This representative of the Planning Board shall be subject to the same scrutiny as other witnesses. Review of the conditional

use application by the Planning Board shall not be a quasi-judicial procedure. Comments of the Planning Board shall be considered with other evidence submitted at the public hearing.

In recommending the granting of a Conditional Use Permit the Planning Board shall make written findings that the applicable regulations of the district in which it is located are fulfilled. With due regard to the nature and state of all adjacent structures and uses, the district within which same is located, and official plans for future development, the Planning Board shall also make written findings that the following provisions are fulfilled:

(a) The use requested is listed among the conditional uses in the district for which application is made; or is similar in character to those listed in that district; and
(b) The requested use is essential or desirable to the public convenience or welfare; and
(c) The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor be detrimental to the health, morals, or welfare; and
(d) The requested use will be in conformity with the Land Development Plan; and
(e) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided; and
(f) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
(g) That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

## SECTION 11-149. - PUBLIC HEARING BY BOARD OF COMMISSIONERS

The Mayor, through the Code Administrator, shall schedule a public hearing on the application for a Conditional Use Permit to be held within 60 days after the application is filed. Public notice of the hearing shall be published in a newspaper of general circulation in the town at least once each week for two successive weeks prior to the public hearing. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing. The Zoning Enforcement Officer shall also post notice on the property involved for a period of one week prior to the hearing.

## SECTION 11-150. – ACTION BY THE BOARD OF COMMISSIONERS

After approval by the Planning Board, or upon appeal after denial by the Planning Board, the request shall be submitted to the Board of Commissioners for final approval. No Conditional Use Permit shall be issued until after review and approval by the Board of Commissioners. Consideration of conditional use permits by the Board of Commissioners are quasi-judicial decisions approved by a simple majority vote.

Once the comments of the Planning Board have been made, or the 45-day period elapses without a recommendation, the Town Council shall hold a public hearing to consider the application at its next regularly scheduled meeting. A quorum of the Town Council is required for this hearing. For the purposes of this section, vacant positions on the Town Board and members who are disqualified from voting on a quasijudicial matter shall not be considered “members of the Board” for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

In approving an application for a conditional use permit in accordance with the principles, conditions, safeguards, and procedures specified herein, the Town Council may impose reasonable and appropriate conditions and safeguards upon the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council.

The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which the subsection below requires.

The Town Council shall issue a conditional use permit if it has evaluated an application through a quasi-judicial process and determined that:

(a) The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.
(b) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor diminish or impair property values within the neighborhood.
(c) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
(d) The exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.
(e) Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.
(f) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
(g) The conditional use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.
(h) Public access shall be provided in accordance with the recommendations of the town's land use plan and access plan or the present amount of public access and public parking as exists within the town now. If any recommendations are found to conflict, the system requiring the greatest quantity and quality of public access, including parking, shall govern.

In the event that a rezoning is sought in conjunction with a conditional use permit, such deliberation would be legislative in nature and not part of the quasi-judicial process.

## SECTION 11-151. - CONDITIONS AND GUARANTEES

Prior to the granting of any conditional use, the Planning Board may recommend, and the Board of Commissioners may stipulate, such conditions and restrictions upon the establishment, location, reconstruction, maintenance, and operation of the conditional use as it deemed necessary as proof that the conditions stipulated in connection therewith are being and will be met, provided that they comply with subsections 10-149(b) and (c) above.

(a) Such conditions may include a time limitation; and
(b) Conditions may be imposed which require that one or more things be done before the use requested can be initiated. For example, "that a solid board fence be erected around the site to a height of six (6) feet before the use requested is initiated"; and
(c) Conditions of a continuing nature may be imposed. For example, "exterior loud speakers shall not be used between hours of 10:00 p.m. and 9:00 p.m."

## SECTION 11-152. - GENERAL PROVISIONS IN GRANTING CONDITIONAL USE PERMITS

(a) Compliance with Other Codes: Granting of a Conditional Use Permit does not exempt applicant from complying with all of the requirements of building codes and other ordinances.

(b) Effect of Approval: If an application for a conditional use permit is approved by the Town Board, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the conditional use permit, or develop any other use listed as a permitted use for the general zoning district in which it is located.

(c) Binding Effect: Any conditional use permit so authorized shall be binding to the property included in the permit unless subsequently changed or amended by the Town Board.

(d) Certificate of Occupancy: No certificate of occupancy for a use listed as a conditional use shall be issued for any building or land use on a piece of property which has received a conditional use permit for the particular use unless the building is constructed or used, or the land is developed or used, in conformity with the conditional use permit approved by the Town Board. In the event that only a segment of a proposed development has been approved, the certificate of occupancy shall be issued only for that portion of the development constructed or used as approved.

(e) Change in Conditional Use Permit: An application to materially change a conditional use permit once it has been issued must first be submitted, reviewed, and approved in accordance with this Chapter including payment of a fee in accordance with the fee schedule approved by the Town Council.

(f) Revocation: In any case where the conditions of a Conditional Use Permit have not been or are not being complied with, the Code Administrator or Code Enforcement Officer shall give the permittee notice of intention to revoke such permit at least ten (10) days prior to a Board of Commissioners review thereof. After conclusion of the review, the Board of Commissioners may revoke such permit.

(g) Expiration**:** In any case where a Conditional Use Permit has not been exercised within the time limit set by the Board of Commissioners, or within one (1) year if no specific time limit has been set, then without further notice, the permit shall be null and void. "Exercised" as set forth in this section shall mean that binding contracts for the construction of the main building have been let; or in the absence of contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the condition set forth in the permit.

(h) Duration: Any conditions imposed in a conditional use authorized and exercised shall be perpetually binding upon the property unless expressly limited by the Conditional Use Permit or subsequently changed or amended by the Planning Board after a public hearing.

## SECTIONS 11-153. – 11-155. – RESERVED.

# CHAPTER 12 – SOLAR ENERY FACILITY

## SECTION 11-156. - PURPOSE.

The purpose of this ordinance is to facilitate the construction, installation, and operation of Solar Energy Systems (SESs) in the Town of Red Springs in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. It is the intent of this ordinance to encourage the development of SESs that reduce reliance on foreign and out-of-state energy resources, bolster local economic development and job creation, support the diversification of the state's energy portfolio, strengthen energy and grid security, reduce greenhouse gas emissions, reduce local air and water pollution, and aid North Carolina in meeting its Renewable Portfolio Standard. This ordinance is not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

## SECTION 11-157. – DEFINITIONS.

**Solar Energy System (SES)** - the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. A system fits into one of three system types: Level 1 SES, Level 2 SES, and Level 3 SES.

(a) **Level 1 Solar Energy System** - Level 1 SESs include the following:
   1. Roof-mounted on any code-compliant structure.
   2. Ground-mounted on an area of up to 50% of the footprint of the primary structure on the parcel but no more than 1 acre.
   3. Covering permanent parking lot and other hardscape areas.
   4. Building integrated solar (i.e., shingle, hanging solar, canopy, etc.).
   5.

(b) **Level 2 Solar Energy System -** Level 2 SESs are ground-mounted systems not included in Level 1 that meet the area restriction listed below:
   1. Agricultural-Residential: SES ≤1/2 acres
   2. Residential: SES ≤1/2 acre
   3. Residential Mobile Home/Residential Mobile Home-1: SES ≤1/2 acre
   4. Residential Multi-Family: SES ≤1/2 acre
   5. General Business/General Business-1/Central Business: SES ≤10 acres
   6. Office and Professional: SES ≤1/2 acre
   7. Industrial: SES of any size

(c) **Level 3 Solar Energy System –** Level 3 SESs are systems that do not satisfy the parameters for a Level 1 or Level 2 Solar Energy System.

## SECTION 11-158. – APPLICABILITY.

(a) This ordinance applies to the construction of any new SES within the jurisdiction of the Town.

(b) An SES established prior to the effective date of this ordinance shall remain exempt:

a. Exception: Modifications to an existing SES that increases the SES area by more than 5% of the original footprint or changes the solar panel type (e.g. photovoltaic to solar thermal) shall be subjected to this ordinance.

(c) Maintenance and repair are not subject to this ordinance.

(d) This ordinance does not supersede regulations from local, state, or federal agencies. Some important examples of such regulations include, but are not limited to:

1. **Building/Electrical Permits Required**
   Nothing in this ordinance modifies already established building standards required to construct a SES.
2. **Onsite Wastewater System Avoidance**
   Nothing in this ordinance modifies already established Department of Health and Human Services requirements. A SES shall not be constructed over onsite waste water systems (e.g. septic systems) unless approved by the Department of Health and Human Services.
3. **Stormwater Permit Required**
   Nothing in this ordinance modifies the requirements or exempts any SES of complying with the various stormwater jurisdictions and regulations established by the Department of Environment and Natural Resources. North Carolina statute requires the acquisition of stormwater permits for construction projects that impact stormwater runoff.
4. **Historic Districts**
   Nothing in this ordinance modifies already established State Historic Preservation Office requirements. May require additional permitting (certificates of appropriateness) to install solar in Historic Districts.

## *SECTION 11-159. – PERMITS REQUIRED.*

The type of permit required for an SES is displayed in ***Table 1 on the following page.***

**Table 1: Permit Requirements**

| Types of Permits Required: P= Permitted Use; C= CUP= Conditional Use Permit | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Zoning District** | Agricultural Residential | Residence | Residential Mobile Home/ Residential MH-1 | Residential Multi-Family | Central Business/GB/GB-1 | Office and Professional | Industrial |
| **Solar Energy Facilities** | | | | | | | |
| Roof-mounted, parking lot cover, or building integrated (Level 1) | P | P | P | P | P | P | P |
| Ground-mounted: | | | | | | | |
| up to 50% of the footprint of the primary structure (Level 1) | P | P | P | P | P | P | P |
| ≤1/2 acre (Level 2) | C | C | N/A | N/A | N/A | N/A | C |
| ≤10 acres (Level 2 or 3) | C | C | N/A | N/A | N/A | N/A | C |
| >10 acres (Level 2 or 3) | C | C | N/A | N/A | N/A | N/A | C |

## *SECTION 11-160. – PARCEL LINE SETBACKS.*

***Table 2.*** below provides the Parcel Line setback to ground mounted SES equipment, excluding any security fencing, poles, and wires necessary to connect to facilities of the electric utility.

**Table 2: Parcel Line Setbacks**

| Zoning District | Level 1 | Level 2 | Level 3 | | |
|---|---|---|---|---|---|
| | | | Front | Side | Rear |
| Agricultural/Residential | Per Zoning District**,*** | Per Zoning District*, ** | 30'* | 15'* | 25'* |
| Residential, Low density | | | 50'* | 50'* | 50'* |
| Industrial | | | 30'* | 15'* | 25'* |

* 100' setback for SES equipment, excluding any security fencing, to any residential dwelling unit. If the SES is on a working farm where the primary residential structure of the farm is on an adjacent lot then this 100' setback will not apply to this primary residential structure.

** Ground-mounted SES must comply with district front yard limitations and setbacks, or otherwise not impair sight distance for safe access to or from the property or other properties in the vicinity

*** Level 1 SESs are not subject to screening requirements typically applied to accessory utility systems (HVAC, dumpsters, etc.).

## SECTION 11-161. – HEIGHT LIMITATIONS.

The height of systems will be measured from the highest natural grade below each solar panel as shown below in ***Table 3***.

**Table 3: Height Limitations***

| Zoning Districts | Level 1[1] | Level 2 | Level 3 |
|---|---|---|---|
| Agricultural Residential | Roof-mounted: Per zoning district<br><br>Ground-mounted: 20’ | 20’ | 20’ |
| All other residential districts, Business districts and Office and Professional district. | | 20’ | 20’ |
| Industrial | | 20’ | 20’ |

* This excludes utility poles and any antennas constructed for the project.

## SECTION 11-162. – AVIATION NOTIFICATION.

The requirements below apply only to Level 1, 2, & 3 systems over half (½) an acre in size:

(a) A map analysis showing a radius of five (5) nautical miles from the center of the SES with any airport operations within this area highlighted shall be submitted with permit application.

(b) For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the SES shall be sent to the NC Commanders Council at least 30 days before the CUP/SUP hearing for Level 3 SESs and at least 45 days before starting construction for applicable Level 1 & Level 2 SESs. Notification shall include location of SES (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground-mounted fixed PV, tracked PV, solar thermal, etc.), and the area of system (e.g. 5 acres). Proof of delivery of notification and date of delivery shall be submitted with permit application.

(c) The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) shall be used per its user’s manual to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information for the Code Administrator, shall be sent to the authority indicated below at least 30 days before the CUP/SUP hearing for Level 3 SESs and at least 45 days before starting construction for Level 1 & Level 2 SESs. Proof of delivery of notification and date of delivery shall be submitted with permit application.

ii. Airport operations at airport in the National Plan of Integrated Airport Systems (NPIAS) within 5 nautical miles of the center of SES: provide required information to the Federal Aviation Administration’s (FAA) Airport District Office (ADO) with oversight of North Carolina.

iii. Airport operations at airport *not* in the NPIAS, including military airports, within 5 nautical miles of the center of SES: provide required information to the NC Commanders Council for military airports and to the management of the airport for non-military airports.

Any applicable SES design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified in 7.b.i and 7.b.ii above for accurate records of the as-built system.

## SECTION 11-163. – LEVEL 1 SOLAR ENERGY SYSTEM REQUIREMENTS.

Level 1 SESs are a permitted use provided they meet the applicable height, setback, aviation notification, and related district standards.

## SECTION 11-164. – LEVELS 2 AND 3 SOLAR ENERGY SYSTEM REQUIREMENTS.

These requirements are in addition to height, setback, aviation notification, and applicable district standards.

**(a) Site Plan:**

1. A site plan shall be submitted to the Code Administrator demonstrating compliance with:
2. Setback and height limitations established in Tables 2 and 3,
3. Applicable zoning district requirements such as lot coverage,
4. Applicable solar requirements per this ordinance.
5. Applicants may choose to provide a sketch plan to the Code Administrator ahead of a site plan, as sketch plans do not require much investment and are an opportunity for the Code Administrator to point out design changes ahead of more expensive site planning.

**(b) Visibility:**

1. SESs shall be constructed with buffering as required by the applicable zoning district.
2. Public signage (i.e. advertising, educational, etc.) as permitted by local signage ordinance, including appropriate or required security and safety signage.
3. If lighting is provided at site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.

**(c) Decommissioning**

1. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with permit application.
   i. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, etc.)
   ii. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations
   iii. Restoration of property to condition prior to development of the SES.
   iv. The timeframe for completion of decommissioning activities.
   v. Description of any agreement (e.g. lease) with landowner regarding decommissioning.
   vi. The party currently responsible for decommissioning.
   vii. Plans for updating this decommissioning plan.
   viii. Before final electrical inspection, provide evidence that the decommissioning plan was recorded with the Register of Deeds.

### SECTIONS 11-165. - CERTAIN LIVESTOCK ALLOWED.

The keeping of goats and sheep shall be allowed within the fenced area of the solar facility for the purpose of grass maintenance only.

### SECTIONS 11-166. – 11-170. - RESERVED.

# CHAPTER 13 – BOARD OF ADJUSTMENT

## ARTICLE 1. CREATION, POWERS AND OPERATIONS.

### SECTION 11-171. - POWERS AND DUTIES.

The Board of Adjustment for the Town of Red Springs shall hear and decide the following:

(a) Requests for variances (as provided in **§11-181.)** and appeals of decisions of administrative officials charged with enforcement of this Ordinance (as provided in **§11-182.)** As used in this subsection, the term "decision" includes any final and binding order, requirement, or determination. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use and development.

(b) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines (as provided in **§11-182**.)

(c) Any other matter the Board is required to act upon by any other town ordinance.

(d) The Board may adopt rules and regulations governing its procedures and operations not inconsistent with the provisions of this Article.

***State Law Reference*** *– NC Gen Stat. §160A-388(a).*

### SECTION 11-172. - MEMBERSHIP.

(a) The Board of Adjustment consisting of five (5) regular members and three (3) alternates. Three (3) regular members and two (2) alternates, appointed by the Town Council, shall reside within the Town. Two (2) regular members and one (1) alternate, appointed by the Robeson County Board of Commissioners shall reside within the Town's extraterritorial planning area. If the Robeson County Board of Commissioners fails to make these appointments within ninety (90) days after receiving a resolution from the Council requesting that they be made, the Council may make them.

(b) Board of Adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed. Vacancies may be filled for the unexpired terms only.

(c) Members may be reappointed to successive terms without limitation.

(d) Regular Board of Adjustment members may be removed by the Council at any time for failure to attend three (3) consecutive meetings or for failure to attend thirty percent (30%) or more of the meetings within any twelve-month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures. Upon request of the member proposed for removal, the Town Council shall hold a hearing on the removal before it becomes effective.

(e) If a regular or alternate in-town member moves outside the town, or if an extraterritorial area regular or alternate member moves outside the planning jurisdiction that shall constitute a resignation from the Board, effective upon the date a replacement is appointed.

(f) Extraterritorial planning area members may vote on all matters coming before the board.

(g) The in-town alternate may sit only in lieu of a regular in-town member and the extraterritorial area alternate may sit only in lieu of the regular extraterritorial area member. When so seated, alternates shall have the same powers and duties as the regular member they replace.

(h) The Board of Adjustment shall keep minutes of its procedures, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact; and final disposition of appeals shall be taken, all of which shall be of public record.

(i) Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board of Adjustment.

***State Law Reference*** *– NC Gen Stat. §160A-388(a).*

## *SECTION 11-173. - MEETINGS OF THE BOARD OF ADJUSTMENT.*

(a) The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with §**11-184.** (Requests to be Heard Expeditiously).

(b) The Board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in **§11-184**. through **§11-187.**

(c) All meetings of the Board shall be open to the public and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

## *SECTION 11-174. - QUORUM.*

(a) A quorum for the Board of Adjustment shall consist of the number of members equal to four-fifths of the regular Board membership (excluding vacant seats). A quorum is necessary for the board to take official action.

(b) A member who has withdrawn from the meeting without being excused as provided in **§11-175(c)** shall be counted as present for purposes of determining whether a quorum is present.

## SECTION 11-175. - VOTING.

(a) The concurring vote of four-fifths of the Board membership (excluding vacant seats) shall be necessary to grant a variance. A simple majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari (see **§11-182.**).

(b) Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with **§11-175(c) below** or has been allowed to withdraw from the meeting in accordance with **§11-175(d).**

(c) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:

i. If the member has a direct financial interest in the outcome of the matter at issue; or

ii. If the matter at issue involves the member's own official conduct; or

iii. If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or

iv. If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

(d) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(e) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

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

***State Law Reference*** *– NC Gen Stat. §160A-75.*

### SECTION 11-176. – BOARD OF ADJUSTMENT OFFICERS.

(a) At its first regular meeting in January, the Board of Adjustment shall, by majority vote of its membership (excluding vacant seats), elect one (1) of its members to serve as Chairman and preside over the Board's meetings and one (1) member to serve as Vice-Chairman. The persons so designated shall serve in these capacities for terms of two (2) years. Vacancies may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).

(b) The Chairman or any member temporarily acting as Chairman may administer oaths to witnesses coming before the board.

(c) The Chairman and Vice-Chairman of the Board of Adjustment may take part in all deliberations and may vote on all issues.

(d) The Planning staff shall serve as secretary to the Board of Adjustment.

### SECTION 11-177. - CONFLICTS ON QUASI-JUDICIAL MATTERS.

A member of the Board of Adjustment or any other body exercising the functions of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote, rule on the objection.

***State Law Reference*** *– NC Gen Stat. §160A-388(e1).*

### SECTION 11-178. – RULES OF PROCEDURE.

The Board of Adjustment shall adopt rules of procedure for the conduct of its affairs and in keeping with the provisions of this Ordinance. Such rules of procedure shall not be effective until approved by the Town Board. All meetings held by the Board of Adjustment shall be held in accordance with NCGS Chapter 143A, Article 33 B, or as may be amended. The Board shall keep minutes of its proceedings suitable for review in Court showing:

(a) The factual evidence presented to the Board of Adjustment by all parties concerned.

(b) The findings of fact and the reasons for the determinations by the Board of Adjustment.

(c) The vote of each member, or if absent or failing to vote, indicating such fact, all of which shall be public record and be filed with the office of the Town Clerk.

### SECTIONS 11-179. – 11-180. - RESERVED.

## ARTICLE 2. VARIANCES AND APPEALS.

### SECTION 11-181. - VARIANCES.

(a) An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Code Administrator. Applications shall be handled in the same manner as applications for permits.

(b) When unnecessary hardships would result from carrying out the strict letter of the Ordinance, the Board of Adjustment shall vary any of the provisions of the Ordinance upon a showing of all of the following:

i. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

ii. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

iii. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

iv. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.

(c) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

(d) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

***State Law Reference*** *– NC Gen Stat. §160A-388(d).*

## SECTION 11-182. - APPEALS.

(a) Any person who has standing under GS 160A-393(d) or the town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal. A notice of appeal shall be considered filed with the Town Clerk when delivered to the Town Hall, and the date and time of filing shall be entered on the notice by the town staff.

(b) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

(c) The owner or other party shall have thirty (30) days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

(d) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words “Zoning Decision” or “Subdivision Decision” in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property for at least ten (10) days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.

(e) The official who made the decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(f) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause immediate peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting permit or otherwise affirming that a proposed use of property is consistent with the Ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations, the appellant may request and the Board of Adjustment may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

(g) Subject to the provisions of subsection 10-177(f), the Board of Adjustment shall hear and decide the appeal within a reasonable time.

(h) The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board of Adjustment shall continue the hearing. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The Board of Adjustment shall have all the powers of the official who made the decision.

(i) When hearing an appeal pursuant to GS 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in GS 160A-393(k).

(j) The parties of an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The Ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

***State Law Reference*** *– NC Gen Stat. §160A-388(b1).*

## SECTION 11-183. - INTERPRETATIONS.

(a) The Board of Adjustment is authorized to interpret the zoning map and to act upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Code Administrator, they shall be handled as provided in Section 10-177.

(b) An application for a map interpretation shall be submitted to the Board of Adjustment by filing an appeal form with Code Administrator. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

(c) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the rules of interpretation shall be applied. Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in Section 10-177 of this Ordinance.

(d) Interpretations of the location of floodway and floodplain boundary lines may be made by the Code Administrator.

## SECTION 11-184. - TIMING FOR HEARING OF REQUESTS.

The Planning Board, Town Council, and Board of Adjustment (as applicable) shall hear and decide all applications, appeals, variance requests, and requests for interpretations, including map boundaries, as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Section 10-181 and obtain the necessary information to make sound decisions.

## SECTION 11-185. – HEARING REQUIRED FOR ALL ACTION OF THE BOARD.

(a) Before making a decision on an appeal or an application for a variance or interpretation, the Board of Adjustment shall hold a hearing on the appeal or application within thirty (30) days of the submittal of a completed appeal or application.

(b) Subject to subsection 10-180(c), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments. All persons presenting evidence or arguments shall be sworn in prior to the presentation of any evidence or arguments. The oath may be administered by the Chairperson, any member acting as Chairperson, or the Clerk to the Board.

(c) The Board of Adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.

(d) The Board of Adjustment may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

(e) The required application fee and all supporting materials must be received by the Code Administrator before an application is considered complete and a hearing scheduled.

## SECTION 11-186. - NOTICE REQUIREMENT FOR HEARING.

(a) Notice of Hearing. The Code Administrator shall give notice of any hearing required by **§11-185** as follows:

i. Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by this Ordinance. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten (10) days, but not more than twenty-five (25) days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

ii. In the case of conditional use permits, notice shall be given to other potentially interested persons by publishing a notice in a newspaper having general circulation in the area one (1) time not less than ten (10) nor more than twenty-five (25) days prior to the hearing.

iii. The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

***State Law Reference*** *– NC Gen Stat. §160A-388(a2).*

## SECTION 11-187. - BURDEN OF PROOF IN DECISIONS.

(a) When an appeal is taken to the Board of Adjustment in accordance with Section 10-177, the Code Administrator shall have the initial burden of presenting to the Board of Adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(b) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 10-176(b), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

## SECTION 11-188. - NUMBERS REQUIRED FOR VOTING.

The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority.

## SECTION 11-189. - EVIDENCE PRESENTED.

(a) The provisions of this section apply to all hearings for which a notice is required by Section 10-181.

(b) All persons who intend to present evidence to the Board of Adjustment shall be sworn in by the Chairperson. The Chairperson of the Board or any member acting as Chairperson and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

(c) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (necessary findings) shall be based upon competent, material, and substantial evidence.

(d) The entirety of a quasi-judicial hearing and deliberation shall be conducted in open session.

(e) Parties to a quasi-judicial hearing have a right to cross-examine witnesses.

(f) Factual findings must not be based on hearsay evidence which would be inadmissible in a court of law.

(g) If a Board of Adjustment member has prior or specialized knowledge about a case, that knowledge should be disclosed to the rest of the Board of Adjustment and parties at the beginning of the hearing.

(h) The Board of Adjustment through the Chairperson, or in the Chairperson's absence, anyone acting as the Chairperson may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under GS 160A-393(d) may make a written request to the Chairperson explaining why it is necessary for certain witnesses or evidence to be compelled. The Chairperson shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chairperson shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chairperson may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all property parties.

## SECTION 11-190. - MODIFYING THE APPLICATION DURING THE HEARING.

(a) In response to questions or comments made in sworn testimony at the hearing, the applicant may agree to modify his application, including the plans and specifications submitted.

(b) Unless such modifications are so substantial or extensive that the Board of Adjustment cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board of Adjustment may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Code Administrator.

## SECTION 11-191. - KEEPING OF THE RECORD.

(a) A record shall be made of all hearings required by Section 10-180 and such recordings shall be kept as provided by state law, but a transcript need not be made. Minutes shall also be kept of all such proceedings, but a transcript need not be made.

(b) Whenever practicable, all documentary evidence, including any exhibits, presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the town in accordance with the NC Department of Cultural Resources requirements (NCGS 132-8).

## SECTION 11-192. - DECISIONS OF BOARD ARE QUASI-JUDICIAL.

SECTION The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the Board. A quasijudicial decision is effective upon filing the written decision within the Clerk to the Board or such other office or official as this Ordinance species. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

## *SECTION 11-193. - APPEALS OF DECISION FROM THE BOARD OF ADJUSTMENT*

Appeal from the decision of the Board of Adjustment may be taken to the Robeson County Superior Court within a period of thirty (30) days following decision.

## *SECTIONS 11-194. – 11-200. – RESERVED.*

# CHAPTER 14 – PLANNING BOARD

## SECTION 11-201. – CREATED.

A Planning and Zoning Board is hereby created pursuant to authority of G.S. §§ 160A-361 and 160A-387.

('70 Code, 2009 S-5 Supplement, § 2-46) (Ord. passed 12-5-67)

## SECTION 11-202. – COMPOSITION; APPOINTMENT; TERM; VACANCIES; ATTENDANCE AT MEETINGS

(a) The Planning and Zoning Board shall consist of seven (7) appointive members, and the Town Manager shall be ex officio a member without voting privilege. Appointive members shall serve for a term of three years and until their successors are appointed and qualified. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired terms to which they relate. Faithful attendance at meetings of the Board shall be considered a prerequisite to continued membership on the Planning and Zoning Board.

(b) Five members of the Planning and Zoning Board shall be citizens of the town; and the Board of Commissioners shall appoint two such members annually during the month of June, to take office on July 1 in the year of their appointment.

(c) Two members of the Planning and Zoning Board shall be citizens of the county residing in the area within one mile beyond the town limits in all directions; and the County Board of Commissioners may appoint two such members annually during the month of June, to take office on July 1 in the year of their appointment. However, the Town Board of Commissioners may recommend persons to the County Board of Commissioners for such appointments; further, in the event the County Board of Commissioners fails to make any appointment as herein provided within 90 days after receipt of a resolution from the Town Board of Commissioners requesting that such appointment be made, the Town Board of Commissioners may thereupon make such appointment.

('70 Code, 2009 S-5 Supplement, § 2-47) (Ord. passed 12-5-67)

***Cross-reference:*** *Membership and jurisdiction of Town Planning Board, see Local Acts, Sess. Laws 1963, Ch. 21*

## SECTION 11-203. – POWERS AND DUTIES OF APPOINTIVE MEMBERS

Town resident appointive members of the Planning and Zoning Board shall have all the powers and duties prescribed by state law for members of municipal planning and zoning boards and commissions. Extraterritorial members of the Planning and Zoning Board shall have equal rights, privileges, and duties with the other members in all matters pertaining to the regulation of the extraterritorial area, both in preparation of original regulations and in consideration of any proposed amendments to such regulations.

('70 Code, 2009 S-5 Supplement, § 2-48)

## SECTION 11-204. – ANNUAL MEETING; OFFICERS; RULES; MEETINGS; RECORDS

The Planning and Zoning Board shall meet annually in July and proceed to elect a chairman and create and fill such offices as it may determine. The term of the chairman and other officers shall be one year, with eligibility for reelection. It shall adopt rules for the transaction of business and shall keep a record of its members' attendance, and of its resolutions, discussions, findings, and recommendations, which record shall be a public record. The Board shall hold such other meetings as may be necessary, and all of its meetings shall be open to the public.

('70 Code, 2009 S-5 Supplement, § 2-49) (Ord. passed 12-5-67)

## SECTION 11-205. – LIMITATION ON EXPENDITURES AND INCURRING INDEBTEDNESS; DONATIONS

The expenditures of the Planning and Zoning Board, exclusive of gifts or grants, shall be within the amounts appropriated for the purpose by the Board of Commissioners, and no indebtedness for which the town shall be liable shall be contracted or incurred by the Planning and Zoning Board unless an appropriation is made by the Board of Commissioners for such purpose and as authorized by law, and then only to the extent of such appropriation. The Planning and Zoning Board shall have the right to accept gifts and donations for the exercises of its functions and may expend the money received from such gifts and donations in a manner which, in the judgment of such Board, is consistent with the best interest of the planning program.

('70 Code, 2009 S-5 Supplement, § 2-50) (Ord. passed 12-5-67)

## SECTION 11-206. – POWERS AND DUTIES

(a) Studies. The Planning and Zoning Board shall make careful studies of present conditions and the probable future development of the town and its environs. Such studies may include but not be limited to: Land-use surveys; population studies; economic base studies; schools, park and recreation studies; traffic and parking studies; and urban renewal studies.

(b) Plans. The Planning and Zoning Board shall formulate and maintain a comprehensive plan for the town and its environs for the purpose of achieving a coordinated, adjusted and harmonious development of the municipality which would promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of its citizens; efficiency and economy in the process of development, convenience of traffic; safety from fire and other dangers; adequate light and air; healthful and convenient distribution of population; provision of adequate open spaces; good civic design and arrangement; wise and efficient expenditures of public funds; adequate provision for public utilities; and for other matters pertaining to the public requirements. The comprehensive plan shall consist of a number of parts which may include but not be limited to the following: a land-use plan; a major thoroughfare plan; a utilities plan; a plan for economic development; a recreation plan; a school plan; and a community facilities plan.

(c) Zoning ordinance. The Planning and Zoning Board may prepare a zoning ordinance to govern the use of buildings and premises, which ordinance shall be submitted to the Board of Commissioners for their consideration and possible adoption.

(d) Subdivision regulations. The Planning and Zoning Board may prepare subdivision regulations governing the subdivision of land within the town and its environs to be submitted to the Board of Commissioners for their consideration and possible adoption.

(e) Powers of review. The Planning and Zoning Board shall review and make recommendations to the Board of Commissioners upon the extent, location, and design of all public structures and facilities; on the acquisition and disposal of public properties; on the opening, abandonment, widening, extension, narrowing, or other change in streets and other public ways; and on the construction, extension, expansion, or abandonment of utilities whether publicly or privately owned. However, in the absence of a recommendation from the Planning and Zoning Board after the expiration of 30 days from the date on which the question has been submitted in writing to that Board, the Board of Commissioners may, if it deems wise, take final action.

(f) Annual report. The Planning and Zoning Board shall, in May of each year, submit to the Board of Commissioners a report of its activities, an analysis of the expenditures to date for the current fiscal year, proposed planning program for the next fiscal year, and a proposed budget for the next fiscal year.

('70 Code, 2009 S-5 Supplement, § 2-51) (Ord. passed 12-5-67)

### SECTION 11-207. – 11-210. – RESERVED

## CHAPTER 15 – FARMER'S MARKET

### *SECTION 11-211. – TITLE AND DESCRIPTION.*

This chapter may be cited as the Farmers Market Chapter. The Town of Red Springs desires to offer a location for local farmers to sell produce and craft items.

### *SECTION 11-212. – PURPOSE.*

The purpose of the Farmers Market is to promote direct marketing of farm products from the local farmer to the consumer. The goal is to operate a farmers market in Red Springs, which will serve the dual purpose of providing (1) one direct retail outlet for local farmers thereby promoting local agriculture, and (2) an alternative buying arrangement for consumers where high quality fresh products are available at reasonable prices in an atmosphere conducive to the exchange of information and ideas between the local farmer and the consumer. The Town desires to establish procedures through which these purposes can be fulfilled.

(Ord. #13-01, passed 1-7-2013)

### *SECTION 11-213. – DEFINITION.*

Farmers Market means an open air market that consists of individual vendors, who set up booths, tables or stands, to sell produce, meat products, fruits and sometimes prepared foods and beverages. The products sold at the market may include handmade non-food items such as crafts, however, no more than 25 percent of the items sold shall be non-food items.

(Ord. #13-01, passed 1-7-2013)

### *SECTION 11-214. – FARMER'S MARKET BOARD.*

The Farmers Market Board will be made up of the following 7 individuals who will serve 3 year terms starting 01/2013 and will be eligible for renewal:

(a) 1 representative from Red Springs Enterprise Alliance

(b) 1 representative from the Red Springs Board of Commissioners

(b) 2 local Farmers

(d) 1 representative from the STEP/the Main Street Program

(e) 1 representative from the Police Department

(f) 1 citizen

(Ord #13-01., adopted 1-7-2013)

### SECTION 11-215. – DETAILS.

(a) The Town of Red Springs has designated approximately 1 acre to 1-1/2 acre on Fourth Avenue as the Town's Official Farmers Market.

(b) The Farmers Market will have 10' X 10'spaces available for individuals to rent for a fee on a daily/weekly/monthly basis.

(c) The Farmers Market will be open two days a week, Friday and Saturday, from dawn to dusk.

(Ord. #13-04; dopted 4-2-2013)

(d) Individuals must pay the daily/weekly/monthly fee to acquire a permit to sell produce and/or crafts at the Farmers Market.

(e) The ordinance may be enforced by any method provided in N.C. Gen. Stat. 160A-175.

(Ord #13-01., adopted 1-7-2013)

### SECTION 11-216. – 11-220. – RESERVED

# CHAPTER 16 – CHANGES AND AMENDMENTS

The Board of Commissioners may change the text regulations and zoning district lines according to the following procedures:

## SECTION 11-221. - ACTION BY THE APPLICANT

The following actions shall be taken by the applicant:

**A. Initiation of Amendments:**

Proposed changes or amendments may be initiated by the Board of Commissioners, Planning Board, Board of Adjustment, or by the owner(s), or their agent, of property within the area proposed to be changed.

**B. Application:**

Application for any change or amendment shall be filed with the Administrative Official at least twenty-five (25) days prior to the Planning Board meeting at which the application is to be considered. The application shall contain a description of the proposed amendment and the names and addresses of property owners directly affected by the proposed change.

**C. Fee**

The Board of Commissioners shall set a fee payable to the Town of Red Springs, North Carolina, to cover the necessary administrative costs and advertising of each application for a change or amendment. The set fee shall be posted in the Town Clerk's Office.

**D. Notice of Public Hearing Letters**

All mail notification regarding zoning amendments shall comply with G.S. 160-A-384 as amended. When mail notification is required, the following procedure will be followed. When a change in the zoning classification of a piece of property is requested, the applicant shall provide to the Code Administrator a list of names and addresses, as obtained from the county tax listings and tax abstracts of all adjacent property owners, and all owners of property within the area under consideration for rezoning along with one set of business (No. 10) envelopes stamped with a first-class stamp and addressed to each person on the list. These addressed envelopes and the list shall be submitted at least eight (8) working days prior to the public hearing.

The Code Administrator shall then mail notices of the public hearing to each person on the list and shall certify that fact to the Board of Commissioners. Such certification shall be deemed conclusive in the absence of fraud.

## SECTION 11-222. - ACTION BY THE PLANNING BOARD

The Planning Board shall consider and make recommendations to the Board of Commissioners concerning each proposed zoning amendment. The following policy guidelines shall be followed by the Planning Board concerning zoning amendments and no proposed zoning amendment will receive favorable recommendation unless:

**A**. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.

**B**. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.

**C**. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved.)

**D**. There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.

**E**. The proposed change is in accord with a comprehensive plan and sound planning principles.

## *SECTION 11-223. - ACTION BY THE BOARD OF COMMISSIONERS*

**A. Notice and Public Hearing**

No amendment shall be adopted by the Board of Commissioners until after public notice and hearing. The Board of Commissioners shall hold the public hearing. Notice of a public hearing shall be given once a week for two successive calendar weeks in a newspaper of general circulation in the Town of Red Springs, said notice to be published the first time not less than ten (10) nor more than twenty-five (25) days prior to the date fixed for said hearing. In addition to the newspaper notice, notice shall also be made by posting the property concerned with a poster indicating the proposed change and date of hearing when the application is for a change to a district boundary.

**B. Board of Commissioners Action**

Before taking such lawful action as it may deem advisable, the Board of Commissioners shall consider the planning board's recommendation on each proposed zoning amendment. If no recommendation is received from the planning board within thirty (30) days after public hearing by the Board of Commissioners, the proposed amendment shall be deemed to have been approved by the planning board.

**C. Protests**

In case, however, of a protest against such change signed by the owners of twenty percent or more (either of the area of the lots included in such proposed change or of those immediately adjacent thereto, extending one hundred feet there from of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots), such amendment shall not become effective except by favorable vote of three-fourths of all members of the Board of Commissioners.

No protest petition shall be valid unless it is:

(1) Written;

(2) Bears the actual signatures of the requisite number of property owners and states that they protest the proposed amendment; and

(3) Is received by the town clerk in time to allow at least two (2) normal working days (excluding weekends and legal holidays) prior to the public hearing on the amendment, so as to allow time for municipal personnel to check the accuracy and sufficiency of the petition.

**D. Reconsideration; One-Year Limitation**

Whenever an application requesting an amendment has been acted on and denied by the planning board and the Board of Commissioners, such application, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.

## *SECTION 11-224. – 11-230. - RESERVED*

## CHAPTER 17 – DEFINITIONS

Except where specifically defined herein all words used in this Ordinance shall carry their customary meanings. Words used in the present tense shall include the future tense; the singular number includes the plural; the word "building" includes the word "structure"; the word "lot" includes the word "plot" or "parcel"; the term "shall" is always mandatory; the words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

**Alley.** A public way which affords only a secondary means of access to an abutting property and is not intended for general traffic circulation.

**Apartment.** See Dwelling, Multi-Family.

**Bed and Breakfast Inn**. Temporary housing which includes breakfast but no other meals. No more than five (5) rooms are available for rent and the operator lives on the premises.

**Billboard**. See Sign, Outdoor Advertising.

**Building.** Any structure enclosed and isolated by exterior walls constructed of or used for residence having a roof supported by columns or by walls and constructed or used for shelter, housing, business, industry, or other public or private purposed or accessory thereto.

**Building, Accessory**. A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal building or use.

**Building, Principal**. A building in which is conducted the principal use of the lot on which said building is situated.

**Building Line**. See Setback Line.

**Building Height**. The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge or a gable, hip, or gambrel roof.

**Church, Club, or Lodge, Private**. An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational, or like activities, operated on a nonprofit basis for the benefit of its members.

**Day Care Facility**. Child care arrangement which provides day care on a regular basis for more than four (4) hours per day for more than twelve (12) children, whether operated for profit or not.

**Developmentally disabled person**. A person who has a severe or chronic disability attributed to mental or physical impairment or a combination thereof, resulting in substantial functional limitations in life activities. Such limitations may affect the person's ability to self-care, utilize receptive and expressive language, learn, be mobile, self-direct, live independently, or be economically self-sufficient. Such persons may require a combination or sequence of special, interdisciplinary, or genetic care, treatment, or other services which are lifelong or extended duration and are individually planned and coordinated.

**Dwelling.** A building or portion thereof providing complete living facilities for one family. The term "dwelling" shall not be deemed to include a motel, hotel, tourist home, or other structures designed for transient residents.

**Dwelling, Single Family**. A detached residence designed for or occupied by one family only.

**Dwelling, Two Family (Duplex**). A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

**Dwelling, Multi-Family**. A residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities each.

**Family**. One or more persons related by blood, marriage, or adoption

Occupying premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging, or hotel.

**Family Care Home**. A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons. Application for permit shall be accompanied by a map showing the nearest existing family care homes, with certification that the proposed home will be located no closer to them than one-half (1/2) mile.

**Frontage.** The distance between the two side lot lines as measured along the front street line.

**Group Home**. A facility providing 24-hour supervision for the custodial care of physically or developmentally disabled children and adults but not including family care homes as provided for in G.S. 168-20 through 168-23. Group homes may include supervised living facilities and residential treatment facilities that primarily provide therapy for juveniles adjudicated as delinquent. All applications for permit shall be accompanied by a map showing the nearest existing group homes, with certification that the proposed group home will be located no closer to them than one-half (1/2) mile.

**Home Occupations**. Any occupation or profession carried on entirely within a dwelling by one or more occupants thereof, providing that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, that no more than twenty-five percent (25%) of the total floor area or six hundred (600) square feet, that no mechanical or electrical equipment is installed or used other than is normally used for domestic, professional, or hobby purposes, or for infrequent consultation or emergency treatment, and providing that no more than one (1) person not a resident of said dwelling is employed in connection with the home occupation. In addition, internal or external alterations inconsistent with the residential use of the building shall be prohibited.

**Hotel, Motel**. Building(s) containing sleeping accommodations for ten (10) or more persons, primarily the temporary abode of persons who have their residences elsewhere.

**Junk Yard or Salvage Yard**. Use of property for indoor and/or outdoor storage, keeping, abandonment, sale or resale of junk including scrap metal, rags, paper, or other scrap materials, used lumber, salvaged house wrecking, and structural steel, materials and equipment, or for the dismantling, demolition, or abandonment of automobiles or other vehicle or machinery or parts thereof.

**Juvenile adjudicated as delinquent**. A minor, less than 18 years of age, who has, through the criminal justice system, been determined to have committed offenses or violations of law. Such persons may be subject to, or court ordered to participate in, varying degrees of therapy, treatment, or behavior modification, including specialized living situations and /or incarceration.

**Lot.** A parcel of land having frontage on a public street or other officially approved means of access occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this Ordinance and the following definitions:

**Lot, corner**. A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

**Lot, substandard**. A parcel of land held in separate ownership having frontage on public street, occupied or intended to be occupied by a principal building or structure together with accessory buildings, and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Ordinance.

**Lot, depth**. The mean horizontal distance between front and rear lot lines.

**Lot of Record**. A lot which is part of a subdivision or plat of which has been recorded in the office of the Register of Deeds of Bladen County, or a lot described by metes and bounds, the description of which has been so recorded.

**Lot, width**. The distance between side lot lines measured at the building line.

**Manufactured Home**. A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (iii) exceeds forty feet in length and eight feet in width (commonly called a mobile home).

**Manufactured Home, Class A**. A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following size and appearance standards:

(a) The manufactured home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis;
(b) The manufactured home has a minimum of 1,200 square feet of enclosed and heated living area;
(c) The pitch of the roof of the manufactured home has minimum vertical rise of three and two tenths feet for each twelve feet of horizontal run (3.2 feet and 12 feet) and the roof is finished with a type of composition shingle that is commonly used in standard residential construction;
(d) The roof eaves and gable overhangs shall be 6-inch minimum (rain gutters may not be included in the minimum dimensions);
(e) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
(f) The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home;
(g) The front entrance to the manufactured home has stairs and a porch, the porch being at least four feet by six feet in size. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the North Carolina State Building Code; and
(h) The moving hitch, wheels, and axles, and transporting lights have been removed.

It is the intent of these criteria to insure that a Class "A" manufactured home, when installed, shall have substantially the appearance of an on-site conventionally built, single-family dwelling, to include landscaping in harmony with surrounding dwellings.

**Manufactured Home Park**. Any plot of ground upon which five (5) or more manufactured homes occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

**Modular Home**. A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the North Carolina State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

**Nonconforming Use.** The use of a building or land which does not conform to the use regulations of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated into this Ordinance.

**Park Model Home**. A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported on its own chassis and (ii) does not exceed forty feet in length and eight feet in width.

**Parking Space.** The storage space of not less than eight (8) feet by twenty (20) feet for one (1) automobile, plus the necessary access space. It shall always be located outside the dedicated street right-of-way.

**Physically disabled person**. A person with any physical impairment that substantially limits one or more of such person's major life activities. Such impairments may include, but are not limited to, any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin and endocrine.

**Service Station**. A building or lot dedicated to the rendering of services such as the sale of gasoline, oil, lubricants, and accessories and the minor repair of automobiles such as tune-ups, brake adjustments, and tire changes excluding body work, overhauling, and painting.

**Setback Line**. The line on the front, rear, and sides of a lot, set according to the district regulations, which delineates the area upon which a structure may be built or maintained.

**Shopping Center**. Two or more commercial establishments planned and constructed as a single unit with off-street parking and loading facilities provided on the property and related in location, size, and type of shops to the trade area which the unit serves.

**Sign.** Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, flashing lights, design, trade names or trademarks by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, a product, which are visible from any public way and used to attract attention.

**Sign, business**. Any sign which advertises an establishment, a service, commodity, or activity conducted upon the premises where such sign is located.

**Sign, outdoor advertising (Billboard).** Any sign which advertises an establishment, service, commodity, goods or entertainment sold or offered on premises other than that on which the sign is located.

**Sign, temporary advertising**. Any sign, banner, pennant, valance or advertising display constructed of wood, metal, cloth, canvas, cardboard, wall-board or other light material with or without frames, whether either by reason of construction or purpose are intended to be displayed for a short period of time only.

**Sign, freestanding**. A sign erected on a freestanding frame, mast or pole, and not attached to any building, and which is permanently affixed to the property.

**Street**. A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

**Structure**. Anything constructed or erected, the use of which requires permanent or semi-permanent location on the ground, or attachment to something having permanent location on the ground, including advertising signs.

**Travel Trailer**. A structure that is (i) intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle), and (ii) is designed for temporary use as a sleeping quarters, but that does not satisfy one or more of the definitional criteria of a manufactured home.

**Tourist Home**. A dwelling in which sleeping accommodations are provided or offered to transient visitors for compensation.

**Yard.** A required open space on the same lot as the principal building, unoccupied and unobstructed (other than for vegetation) from the ground upward except as otherwise provided herein.

**Yard, front**. A yard extending across the front of a lot measured from side to lot line to side lot line and lying between the abutting street right-of-way and the front building setback line.

**Yard, rear**. A yard extending across the rear of the lot measured from side lot line to side lot line and lying between the rear property line and the rear building setback line.

**Yard, side**. A yard extending along either side of a lot measured from front yard line to rear line and lying between the side lot line and the side setback line.

**Zoning Enforcement Officer**. The person, officer, or official or his authorized representative, whom the Board of Commissioners has designated as its agent for administration of this Ordinance.

## DEFINITIONS FOR FACILITIES PROVIDING HEALTH-RELATED CARE

Note: These definitions are provided as a supplement to what is contained in the ***section above*** to aid in understanding of the many types of health care facilities which may already exist in the town or may apply for permits to locate in the town.

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| Adult Care Home | *Adult care home* is an assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. (G.S. 131D-2.1, G.S. 131D-20)<br><br>*Adult care home* as distinguished from a nursing home, means a facility operated as a part of a nursing home and which provides residential care for aged or disabled persons whose principal need is a home with the shelter or personal care their age or disability requires. Medical care in an adult care home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Continuing planned medical and nursing care to meet the resident's needs may be provided under the direct supervision of a physician, nurse or home health agency. Adult care homes are to be distinguished from nursing homes subject to licensure under this part. (G.S. 131E-101)<br><br>*Adult care home* means a facility with seven or more beds licensed under Part 1 of Article 1 of Chapter 131D of the General Statutes or G.S. Chapter 131E that provides residential care for aged or disabled persons whose principal need is a home which provides the supervision and personal care appropriate to their age and disability and for whom medical care is only occasional or incidental. (G.S. 131E-176) |
| Adult Day Care Program | *Adult day care program* means the provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. The Department of Health and Human Services shall annually inspect and certify all adult day care programs, under rules adopted by the Social Services Commission. The Social Services Commission shall adopt rules to protect the health, safety, and welfare of persons in adult day care programs. These rules shall include minimum standards relating to management of the program, staffing requirements, building requirements, fire safety, sanitation, nutrition, and program activities. Adult day care programs are not required to provide transportation to participants; however, those programs that choose to provide transportation shall comply with rules adopted by the Commission for the health and safety of participants during transport. (G.S. 131D-6) |
| Ambulatory Surgical Facility | *Ambulatory surgical facility* means a facility designed for the provision of a specialty ambulatory surgical program or a multispecialty ambulatory surgical program. An ambulatory surgical facility serves patients who require local, regional or general anesthesia and a period of post-operative observation. An ambulatory surgical facility may only admit patients for a period of less than 24 hours and must provide at least one designated operating room or at least one gastrointestinal endoscopy room and at least one designated recovery room, have available the necessary equipment and |

trained personnel to handle emergencies, provide adequate quality assurance and assessment by an evaluation and review committee, and maintain adequate medical records for each patient. An ambulatory surgical facility may be operated as a part of a physician or dentist's office, provided the facility is licensed under G.S. Chapter 131E, Article 6, Part 4, but the performance of incidental, limited ambulatory surgical procedures which do not constitute an ambulatory surgical program and which are performed in a physician or dentist's office does not make that office an ambulatory surgical facility. (G.S. 131E-146, G.S. 131E-176)

Assisted Living Residence

*Assisted living residence* means any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The department may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of G.S. 131E-102. Effective October 1, 2005, there are two types of assisted living residences: adult care homes and adult care homes that serve only elderly persons. Elderly person means:

a. Any person who has attained the age of 55 years or older and requires assistance with activities of daily living, housing, and services, or
b. Any adult who has a primary diagnonsis of Alzheimer's disease or other form of dementia who requires assistance with activities of daily living, housing, and services provided by a licensed Alzheimer's and dementia care unit.

Effective July 1, 1996, there is a third type, multiunit assisted housing with services. (G.S. 131D-2.1, G.S. 131D-20)

Chemical Dependency Treatment Facility

*Chemical dependency treatment facility* means a public or private facility, or unit in a facility, which is engaged in providing 24-hour a day treatment for chemical dependency or substance abuse. This treatment may include detoxification, administration of a therapeutic regimen for the treatment of chemically dependent or substance abusing persons and related services. The facility or unit may be:

Family Care Home

*Family care home* means an adult care home having two to six residents. The structure of a family care home may be no more than two stories high and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct exterior ground-level accesses to the upper story. (G.S. 131D-2.1, G.S. 131D-20)

Group Home for Developmentally Disabled Adults

*Group home for developmentally disabled adults* means an adult care home which has two to nine developmentally disabled adult residents.

Health Care Facility

*Health Care Facility* means a hospital, psychiatric facility; rehabilitation facility; long-term care facility; home health agency; intermediate care facility for the mentally retarded; chemical dependency treatment facility; and ambulatory surgical facility. (G.S. 131E-154.2)

The following are considered to be *health care facilities*:

1. Adult care homes as defined in G.S. 131D-2.1
2. Hospitals as defined in G.S. 131E-76.
3. Home care agencies as defined in G.S. 131E-136.
4. Nursing pools as defined by G.S. 131E-154.2.
5. Hospices as defined by G.S. 131E-201.
6. Nursing facilities as defined by G.S. 131E-255.
7. State-operated facilities as defined in G.S. 122C-3(14)f
8. Residential facilities as defined in G.S. 122C-3(14)e
9. 24-hour facilities as defined in G.S. 122C-3(14)g
10. Licensable facilities as defined in G.S. 122C-3(14)b.
11. Multiunit assisted housing with services as defined G.S. 131D-2.1.
12. Community-based providers of services for the mentally ill, the developmentally disabled and substance abusers that are not required to be licensed under Article 2 of Chapter 122C of the General Statutes.
13. Agencies providing in-home aide services funded through the Home and Community Care Block Grant Program in accordance with G.S. 143B-181.1(a)11. (G.S. 131E-256)

Health Service Facility

*Health service facility* means a hospital; long-term care hospital; psychiatric facility; rehabilitation facility; nursing home facility; adult care home; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility for the mentally retarded; home health agency office; chemical dependency treatment facility; diagnostic center; hospice office, hospice inpatient facility, hospice residential care facility; and ambulatory surgical facility. (G.S. 131E-176)

Hospice Inpatient Facility

*Hospice inpatient facility* means a freestanding licensed hospice facility or a designated inpatient unit in an existing health service facility which provides palliative and supportive medical and other health services to meet the physical,

psychological, social, spiritual, and special needs of terminally ill patients and their families in an inpatient setting. (G.S. 131E-176, G.S. 131E-201)

Hospice Residential Care Facility

*Hospice residential care facility* means a freestanding licensed hospice facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in a group residential setting. (G.S. 131E-176, G.S. 131E-201)

Hospital

*Hospital* means any facility which has an organized medical staff and which is designed, used, and operated to provide health care, diagnostic and therapeutic services, and continuous nursing care primarily to inpatients where such care and services are rendered under the supervision and direction of physicians licensed under Chapter 90 of the General Statutes, Article 1, to two or more persons over a period in excess of 24 hours. The term includes facilities for the diagnosis and treatment of disorders within the scope of specific health specialties. The term does not include private mental facilities licensed under Article 2 of Chapter 122C of the General Statutes, nursing homes licensed under G.S. 131E-102, and adult care homes licensed under Part 1 of Article 1 of Chapter 131D. (G.S. 131E-76)

*Hospital* means a public or private institution which is primarily engaged in providing inpatients, by or under supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. The term includes all facilities licensed pursuant to G.S. 131E-77 of the General Statutes, except long-term care hospitals. (G.S. 131E-176)

Intermediate Care Facility for the Mentally Retarded

*Intermediate care facility for the mentally retarded* means facilities licensed pursuant to Article 2 of Chapter 122C of the General Statutes for the purpose of providing health and facilitative services based on the developmental model and principles of normalization for persons with mental retardation, autism, cerebral palsy, epilepsy or related conditions. (G.S. 131E-176)

Kidney Disease Treatment Center

*Kidney disease treatment center* means a facility that is certified as an end-stage renal disease facility by the Centers for Medicare and Medicaid Services, Department of Health and Human Services, pursuant to 42 C.F.R. § 405 (G.S. 131E-176)

Long-Term Care Facility

Long-term care facility means a nursing home as defined in G.S. 131E-101(6) and an adult care home as defined in G.S. 131D-2.1(3) or G.S. 131E-101(1). (G.S. 131E-231)

Nursing Care

*Nursing care* means:

a. Skilled nursing care and related services for residents who require medical or nursing care;
b. Rehabilitation services for the rehabilitation of injured, disabled, or sick persons; or
c. Health-related care and services provided on a regular basis to individuals who because of their mental or physical condition require care and services above the level of room and board, which can be made available to them only through institutional facilities.

These are services which are not primarily for the care and treatment of mental diseases. (G.S. 131E-176)

Nursing Home

*Nursing home* means a facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A *nursing home* is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A *nursing home* provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. (G.S. 131E-101)

*Nursing home* means a nursing home licensed under this Chapter and includes an adult care home operated as part of a nursing home. (G.S. 131E-128.1)

Psychiatric Facility

*Psychiatric facility* means a public or private facility licensed pursuant to Article 2 of Chapter 122C of the General Statutes and which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons. (G.S. 131E-176)

Rehabilitation Facility

*Rehabilitation facility* means a public or private inpatient facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons

through an integrated program of medical and other services which are provided under competent, professional supervision. (G.S. 131E-176)

Definitions above are found at North Carolina Division of Health Services Regulation at the Department of Health and Human Services. Web address - http://www2.ncdhhs.gov/dhsr/glossary.htm.

**Rest Home** – See Nursing Home.

**Skilled Nursing Facility** – See Nursing Home.

**Group Home** - A facility providing 24-hour supervision for the custodial care of physically or developmentally disabled children and adults but not including family care homes as provided for in G.S. 168-20 through 168-23. Group homes may include supervised living facilities and residential treatment facilities that primarily provide therapy for juveniles adjudicated as delinquent. Typically there are no more than six residents and there is at least one trained caregiver there twenty-four hours a day. All applications for permit shall be accompanied by a map showing the nearest existing group homes, with certification that the proposed group home will be located no closer to them than one-half (1/2) mile.

**Temporary family health care structure -** A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that:

(a) is primarily assembled at a location other than its site of installation,
(b) is limited to one occupant who shall be the mentally or physically impaired person,
(c) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

# TITLE 12. – PUBLIC RECORDS

## CHAPTER 1. - GENERAL

### SECTION 12-1. – CUSTODIAN AND RECORDS MANAGEMENT PROGRAM.

The Town Clerk shall be the custodian of all official town records and shall be responsible for administering the records management program.

### SECTION 12-2. – MUNICIPAL RECORDS RETENTION AND DISPOSITION.

All official town records, both paper and those maintained in electronic form, shall be maintained in accordance with the municipal records retention and disposition schedule issued by the division of archives and history, department of cultural resources, which is on file in the office of the Town Clerk.

### SECTION 12-3. – PUBLIC ACCESS.

Records shall be made available to the public, under the supervision of town personnel in the department in which the record is maintained, during regular office hours. No town record may be removed from the premises.

***State Law Reference—*** Inspection and examination of records, G.S. 132-6.

### SECTION 12-4. – COPYING.

Photocopies of any public record, unless the document has been deemed, according to state law, to be a confidential record, shall be provided to any citizen upon request and payment of the appropriate fee. Further provided as follows:

a) *Need to create records.* If the information requested is contained in a set of records, but would require compilation in order to create the record desired, it will be the requester's responsibility to perform such compilation and not the responsibility of the town. If the town finds it appropriate to provide such service, it may negotiate a reasonable charge to provide the information to the requester.

b) *Computer database records.* Requests for copies of computer databases must be submitted, in writing, to the department in which the record is maintained. Any copies furnished shall exclude any information which has been determined by state law to be confidential. Any confidential data contained in a record shall be eliminated from the record furnished to the public.

(c) *Geographic information systems (GIS).* Any person requesting a copy of information contained in the geographic information system (GIS) must sign a document agreeing not to resell or otherwise use the information for trade or commercial purposes. If a person requesting a copy of the GIS wishes to resell the information or otherwise use it for trade or commercial purposes, the cost for the information supplied by the town shall be negotiated by the town manager.

d) *Forms of available records.* If a record is maintained in non-electronic form, the town will not be required to create an electronic version for the sole purpose of public distribution.

e) *Diskettes and/or CDS.* All diskettes and/or CDS used to obtain town data shall be furnished by the town. No other diskettes and/or CDS shall be used in town owned computers.

### SECTION 12-5. – FEES AND CHARGES.

Copies of records may be obtained at the current rates which are set from time to time and a schedule of such rates is on file and available in the town Clerk's office. A special service charge, in addition to the actual cost of duplication, shall be charged where:

a) The request requires extensive use of information technology resources or extensive clerical or supervisory assistance by personnel; or

b) Producing the record in the medium requested results in a greater use of information technology resources than that established by the town for reproduction of the volume of information requested. This special service charge will be based on the actual cost incurred for such extensive use of the resources or personnel involved in the fulfillment of the request.

### SECTION 12-6. – CONFIDENTIAL INFORMATION TO BE REMOVED.

If the records being requested contain confidential information which is commingled with public information, the confidential information shall be deleted from the record before it is distributed to the public or made available for review by the public.

***State Law Reference—*** Requests, scope, examination, copying, G.S. 132-6—132-6.2.

### SECTION 12-7. – 12-10. – RESERVED.

# TITLE 13. – PUBLIC SAFETY

## CHAPTER 1. – POLICE PROTECTION

### ARTICLE 1. GENERAL.

#### *SECTION 13-1. – RULES AND REGULATIONS.*

The Town Manager, in consultation with the Chief of Police, shall promulgate rules and regulations for the government of the Police Department, its personnel, and property. Such rules and regulations, when approved by the Board of Commissioners and placed on file in the office of the Town Clerk, shall be binding on all personnel of the Police Department, and it shall be unlawful for any member of the Police Department to violate or fail to comply with any such rule or regulation.

('70 Code, 2009 S-5 Supplement, § 15-8)

***State Law Reference:*** *Law enforcement, see G.S. § 160A-281 et seq.*

#### *SECTION 13-2. – COMPOSITION; RANKS AND DESIGNATIONS OF MEMBERS.*

The Police Department shall consist of the Chief of Police and such other personnel as may from time to time be authorized by the Board of Commissioners. Personnel subordinate to the Chief of Police shall have such ranks or position designations as may from time to time be authorized by the Board of Commissioners.

('70 Code, 2009 S-5 Supplement, § 15-1) (Ord. passed 1912; Am. Ord. 2, passed - -)

#### *SECTION 13-3. – AUTHORITY OF MAYOR TO COMMAND POLICE DEPARTMENT DURING STATE OF EMERGENCY.*

During the effective period of any state of emergency proclaimed by the Mayor under the provisions of Chapter 3 of this Title, the Mayor may assume command of the Police Department.

('70 Code, 2009 S-5 Supplement, § 15-2)

#### *SECTION 13-4. – AUXILIARY POLICE DEPARTMENT.*

(a) On public occasions, or upon the existence of conditions under which, in the sound discretion of the Mayor, it appears necessary to augment the authorized strength of the Police Department to assure maintenance of the public peace and order, or to assure that normal police department functions will be performed efficiently under abnormal conditions, the Mayor may appoint or authorize the appointment of special police officers, and he or she may designate their duties and the localities in which they shall perform their duties. Special police officers so appointed shall be under command of the Chief of Police and other police officers superior to them in rank.

('70 Code, 2009 S-5 Supplement, § 15-3) (Ord. passed 1912; Am. Ord. 2, passed - -)

(b) An Auxiliary Police Department is hereby created to assist and complement the Red Springs Police Department under authority granted by G.S. § 160A-282 of the North Carolina General Statutes.

(1) In creating this Department, the number of members shall be limited to ten, with each officer performing 12 hours of duty per calendar month; and

(2) Members of the auxiliary force will be certified as sworn officers in the State of North Carolina and required to attend regular, scheduled training sessions and schools as assigned by the Chief of Police; and

(3) Members of the auxiliary force, while on duty, will be assigned a patrol partner who is a full time member of the Department; and

(4) Members of the auxiliary force will serve at the pleasure of the Chief of Police; and

(5) The members shall serve without compensation, but will be entitled to benefits under the North Carolina Workers Compensation Act and to any fringe benefits for which such volunteer personnel qualify.

(Ord. 88-181, passed 12-13-88)

***Statutory reference:*** *Auxiliary law enforcement personnel, see G.S. 160A-282*

## SECTION 13-5. – CHIEF OF POLICE.

(a) The Chief of Police shall:

i. Be chief executive and commanding officer of the Police Department and all personnel thereof.

ii. Be chargeable with and responsible for the enforcement of all laws and ordinances and all rules and regulations of the Department, provided, that where by law, this code, or other ordinance the Chief of the Fire Department, the Building Inspector, or other officer has the primary duty to enforce any law or ordinance, the Chief of Police shall cooperate with such other officers and render such assistance to them as may be necessary.

iii. Assign personnel of the Police Department to their respective duties, and he or she may change such assignments from time to time, whenever in his or her judgment the exigencies of the service shall require such change. He or she shall maintain a roster of police officers to respond to all fire alarms and assist the Fire Department in the protection of life and property, in regulating traffic, maintaining order, and in enforcing observance at the scene of any fire of all laws and ordinances applicable thereat.

iv. Have the power to suspend without pay, pending the outcome of the trial of charges, any member of the Police Department; provided, that no such suspension shall be continued for a period of more than ten days without approval of the Town Manager. If the suspension of any member of the Police Department is not confirmed by the Town Manager on the charges preferred, such member shall be entitled to full pay from date of suspension.

v. Have general care of the peace of the town and shall see to it that all subordinates do their duty in preserving the peace.

('70 Code, 2009 S-5 Supplement, § 15-4) (Ord. 16, passed 8-3-43; Am. Ord. passed 2-13-66)

***Cross-reference:*** *Authority of Board of Commissioners to appoint a Chief of Police, see Charter.*

## SECTION 13-6. – POLICE OFFICERS; AUTHORITY, DUTIES.

(a) Police officers shall have authority pursuant to G.S. §§ 15A-501 and 160A-285, to arrest all persons for violations of the laws of the state or provisions of this code or other ordinances of the town, and to execute, anywhere in the police jurisdiction of the town, any warrant or process.

(b) It shall be the duty of police officers:

i. To suppress all disturbances and arrest all offenders against the laws of the state or ordinances of the town.
ii. To prevent injuries to town property and buildings, and to the streets and sidewalks of the town.
iii. To hold themselves in readiness at all times to answer the calls, and obey the orders, of their superiors.
iv. To conform to all rules and regulations of the Police Department.
v. To render their services with zeal, courage, discretion, and fidelity.
vi. When designated for such purpose by the Chief of Police, to serve and execute tax levy papers and conduct tax sales under the general direction of the Tax Collector.
vii. To report to their superiors any information given them by responsible persons as to violations of law, this code, or ordinance; and to report conditions or circumstances within their own knowledge which give rise to reasonable supposition of violations of laws or ordinances; and to make such investigation thereof as may be directed by their superiors.
viii. To perform all duties and obey all commands lawfully assigned to or given them by their superior officers.

(c) No member of the Police Department shall absent himself from his or her duties without leave by his or her superior officer.

('70 Code, 2009 S-5 Supplement, § 15-6) (Ord. passed 1912; Am. Ord. 8, passed 12-6-55; Am. Ord. passed 12-13-66)

***Statutory reference:*** *Powers and duties of police officers, see G.S. 160A-285*

## SECTION 13-7. – RESERVED FOR FUTURE USE.

Reserved for future use.

## SECTION 13-8. – ARREST PROCEDURE.

Persons arrested by town police officers shall, without undue delay, be taken before the appropriate judicial official having jurisdiction of the alleged offenses, in accordance with the procedures set forth in G.S. § 15A-501.

('70 Code, 2009 S-5 Supplement, § 15-9) (Ord. passed 1912; Am. Ord. 10, passed - - )

## SECTION 13-9. – OVERTIME WAGES.

(a) Pursuant to section 7(k) of the Fair Labor Standards Act of 1938, as amended, law enforcement personnel are eligible for overtime wages only for time worked in excess of the maximum total permitted per designated work period.

(b) Law enforcement employees of the town shall work on a work period of 28 days in length.

(c) This section shall affect only those law enforcement personnel who are eligible for the exception set forth in the Act cited in division (A) above. The Town Manager is directed to notify all affected employees of this action.

(Res. passed 12-3-74)

***Statutory reference:*** *Exemptions from overtime wage requirements, see G.S. § 95-25.14*

### SECTION 13-10. – RESIDENCY REQUIREMENTS.

Pursuant to G.S. § 160A-281, police officers may reside in places other than within the town limits, provided approval for such domicile privileges is obtained from the Town Manager.

(Res. 72-004, passed 2-1-72)

### SECTION 13-11. – BODY ARMOR POLICY.

(a) The town will issue body armor to all sworn officers in the Police Department. The issued body armor shall be Kevlar 129 Hybrid including a removable Carrier 6x8 Trauma Plate. The Chief of Police may approve other body armor.

(b) All officers shall have the department issued body armor with him or her at all times while on duty.

(c) Officers may elect, by signing a written waiver in advance, not to wear body armor at all times that they are on duty in situations governed by division (D) below.

(d) Officers will wear body armor when dispatched to a call where a firearm is involved.

(e) Officers may wear body armor on the outside of their uniform in an emergency.

(Res. 97-01, passed 1-7-97)

### SECTION 13-12. – SERVICE EQUIPMENT TO RETIRING POLICE OFFICER.

Any sworn police officer that has worked for at least a total of 25 years as a police officer for the town will be presented with his/her service handgun and badge at retirement.

(Ord. 05-04, passed 2-1-05)

### SECTIONS 13-13. – 13-20. – RESERVED.

## ARTICLE 2. EXTRATERRITORIAL JURISDICTION AUTHORITY OF POLICE

### SECTION 13-21. – AUTHORITY FOR ONE MILE BEYOND TOWN FOR CERTAIN PURPOSES

The authority of police officers of the Town of Red Springs to make arrests, serve warrants, and otherwise exercise the powers of peace officers is hereby extended to include all territory within one mile of the corporate limits of the Town of Red Springs.

(Sess. Laws 1949, Ch. 23, § 1.)

### SECTION 13-22. – LAWS REPEALED

All laws and clauses of laws in conflict with this Act are hereby repealed.

(Sess. Laws 1949, Ch. 23, § 2.)

### SECTION 13-23. – EFFECTIVE DATE

This Act shall become effective upon its ratification. In the General Assembly read three times and ratified, this the 9th day of February, 1949.

(Sess. Laws 1949, Ch. 23, § 3.)

### SECTIONS 13-24. – 13-25 – RESERVED

## ARTICLE 3. ALARMS/ALARM SYSTEMS

### SECTION 13-26. – SHORT TITLE

This chapter shall be known and may be cited and referred to as Alarm Systems Regulations.
(Ord. 02-01, passed 1-8-02)

### SECTION 13-27. – PURPOSE

(A) The purpose of this chapter is to establish regulations governing alarm systems requiring response thereto by the Police or Fire Department.

(B) The terms of this chapter shall in no way prohibit alarm companies from providing service by private source to other offices within or outside the town.
(Ord. 02-01, passed 1-8-02)

### SECTION 13-28. – DEFINITIONS

For the purposes 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 housing the alarm system, or the emission of a signal to a direct monitoring service, which in turn notifies the Town Communications Center that the alarm has been activated.

***ALARM BUSINESS.*** The business by any individual, partnership or corporation 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 a fire or police unit as the result of an alarm.

***ALARM SYSTEM.*** Any electronic or mechanical device that emits any signal (electronic, visible, audible, silent, recorded or otherwise) and is designed, intended or used to detect fire or an unauthorized entry into a building, structure or premises, to signal a fire or an attempted robbery or holdup, 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.

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

***DIGITAL ALARM.*** An alarm system that automatically sends signals over regular telephone lines connected to a digital receiving console, as opposed to a telephone hand set.

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

***LOCAL ALARM.*** An alarm or device that produces a signal not connected in any way to any alarm-monitoring centers, such as store or home burglar alarms activating bell or horn devices.

***OFFICER.*** Either a sworn law enforcement officer or a member of the Fire Department.

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

(Ord. 02-01, passed 1-8-02)

## SECTION 13-29. – 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 to this chapter.
(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 Police Department the name(s) and telephone number(s) of at least one, and no more than six, person(s) authorized and able to deactivate the alarm system.
    (1) After the effective date of this chapter, it shall be unlawful to connect a local alarm without first notifying the Police Department of the name(s) and telephone number(s) of person(s) authorized and able to deactivate the alarm system.
    (2) Any changes in the name(s) or telephone number(s) of person(s) authorized and able to deactivate the alarm system must be communicated to the Police Department immediately.
        i. Burglar alarm systems installed within the town shall be equipped with an automatic bell time cut-off module or programming to prevent continuous alarm sounding when the user is unavailable to manually silence the alarm.
        ii. To prevent false alarms, system or test devices that give a delay of ten seconds or longer prior to alarm system activation, in order to warn the alarm user of an open alarm circuit, are highly recommended for all burglar alarm systems.
(g) Alarm systems installed after the effective date of this chapter will be required to have reset capabilities, and to reset within 15 minutes.
    (1) An alarm system cut-off shall be installed to override all malfunctioning alarms.
    (2) 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 comply with the provisions herein.

(Ord. 02-01, passed 1-8-02)

## SECTION 13-30. – AUTOMATIC DIALING DEVICES; INTERCONNECTION TO POLICE DEPARTMENT.

(d) No automatic dialing device shall be interconnected to any telephone numbers of the Police Department or the Communications Center after the effective date of this chapter.
    i. Within six months of the effective date of this chapter, all automatic dialing devices interconnected to any telephone numbers of the Police Department or the Communications Center shall be disconnected.
    ii. The user of each such device shall be responsible for having the device disconnected upon notification by the Chief of Police.
(b) Each separate violation of this section shall be deemed a separate punishable offense.

(Ord. 02-01, passed 1-8-02)

## SECTION 13-31. – ALARM RESPONSES.

(A) (1) The town will provide a maximum of three fire alarm or six burglar alarm responses to any alarm user within any calendar year.

(2) Thereafter, a user fee, as approved by the Town Council, shall be charged for any alarm response in excess of three fire alarm or six burglar alarm responses.

(B) The alarm user or his or her representative shall reset an alarm system, when notified by an officer that the alarm has activated.

(C) For purposes of this chapter, ***CALENDAR YEAR*** shall mean January 1 through December 31.

(Ord. 02-01, passed 1-8-02)

## *SECTION 13-32. – EXCLUSIONS*

(A) For the purpose of computing the number of alarm responses in **Section 13-31.,** an alarm shall not include an alarm that is:

(1) Determined to have been activated by adverse weather conditions as reported by the Communications Center;

(2) 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

(3) 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.

(B) (1) Any determination that an alarm activation was not one of the exclusions herein may be appealed to the Police Chief or the Fire Chief, or their designated representative as the case may be, within 72 hours.

(2) The decision of the Police Chief or Fire Chief or their designated representative shall be final.

(C) 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 notified the Communications Center.

(Ord. 02-01, passed 1-8-02)

## *SECTION 13-33. – PROHIBITED ACTS*

(a) It shall be unlawful for any person to activate an alarm for the purpose of summoning either the Police or the Fire Department, 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) In accordance with **Section 13-31.**, it shall be unlawful for an alarm user to fail to reimburse the town for alarm response(s) by the Police Department.

(Ord. 02-01, passed 1-8-02)

## SECTION 13-34. – VIOLATIONS

(a) *Violations of* **Section 13-29.:**

(1) When an alarm sounds continuously for a period of 60 minutes from the time officers respond to the alarm, due to the failure of the alarm user or his or her representatives to reset the alarm, every subsequent 60-minute period, or portion thereof, that the alarm continues to sound shall be deemed a separate alarm.

(2) The alarm user shall reimburse the town in the amount set by the Board of Commissioners for each alarm resulting from the continuous operation of an alarm.

(3) If number of calls exceeds six calls for police or three calls for fire per calendar year, the penalty fee per call will be in the amount set by the Board of Commissioners.

(4) Effective the date of this chapter, all alarm users shall begin with a zero number of responses for purposes of **Section 13-29.**

(b) *Violations of* **Section 13.31(A).** Violations shall be a misdemeanor, punishable by a fine or not more than the amount set by the Board of Commissioners or imprisonment for not more than 30 days.

(c) *All other violations.*

(1) All other violations of this chapter, including failure to pay the fees imposed by **Section 13-29.** within 14 days upon notice that such fees are due, shall subject the offender to a civil penalty in the nature of a debt in the amount set by the Board of Commissioners, in addition to any other fees then currently due and owing.

(2) Such civil penalties and fees may be recovered by the town in a civil action in the nature of a debt, pursuant to G.S. § 160A-175(c).

(Ord. 02-01, passed 1-8-02)

SECTIONS 13-35. – 13-50. – RESERVED

# CHAPTER 2. – FIRE PROTECTION

## ARTICLE 1. ORGANIZATION OF DEPARTMENT

### SECTION 13-51. – RULES AND REGULATIONS

The Town Manager, in consultation with the Chief of the Fire Department, shall promulgate rules and regulations for the government of the Fire Department, its personnel and property. Such rules and regulations, when approved by the Board of Commissioners and placed on file in the office of the Town Clerk, shall be binding on all personnel of the Fire Department, and it shall be unlawful for any member of the Fire Department to violate or fail to comply with any such rule or regulation.

('70 Code, 2009 S-5 Supplement, § 10-24)

***Statutory reference:*** *Authority to establish, see G.S. § 160A-291*

### SECTION 13-52. – COMPOSITION; RANKS OF MEMBERS

The Fire Department shall consist of the Chief of the Fire Department and such number of regular or volunteer, or regular and volunteer, members as may from time to time be authorized by the Board of Commissioners. Members of the Fire Department shall have such ranks as may from time to time be authorized by the Board of Commissioners.

('70 Code, 2009 S-5 Supplement, § 10-18) (Ord. 16, passed 8-3-43)

### SECTION 13-53. – RULES AND REGULATIONS

(a) The membership of the Fire Department shall consist of such persons as may be appointed by the Chief subject to approval by the Town Manager
(b) New members shall be not less than 18 years of age and not more than 50 except for experienced members who have transferred from another rated department.
(c) On a yearly basis, all members must attend a minimum of 36 hours of available training and a minimum of 20% of all fire calls.

('70 Code, 2009 S-5 Supplement, § 10-19) (Ord. 16, passed 8-3-43; Am. Res. 87-153, passed 12-1-87; Am. Ord. 05-43, passed 12-6-05)

***Cross-reference:*** *Authority of Town Manager to allow employees to reside outside town limits, see § 33.05*

### SECTION 13-54. – CHIEF OF FIRE DEPARTMENT; POWERS AND DUTIES

(a) The Chief shall be technically qualified by training and experience and shall have ability to command subordinates and hold their respect and confidence. His or her residence shall be within the limits of the town.
('70 Code, 2009 S-5 Supplement, § 10-26)
(b) The Chief of the Fire Department shall be held accountable only to the Town Manager. The Chief shall make such reports as may be required by the State Commissioner of Insurance, the Board of Commissioners, and the Town Manager. All Fire Department officers shall be accountable primarily to the Chief of the Fire Department, and ultimately to the Town Manager.
('70 Code, 2009 S-5 Supplement, § 10-27)
(Ord. 16, passed 8-3-43)

(c) The Chief of the Fire Department shall be the commanding officer of the Fire Department, and shall be responsible for its proper management. The property of the Fire Department shall be in his or her care, and for its safety and proper assignment he or she shall be directly responsible. It shall be the duty of the Chief to see that all Departmental rules, regulations, and orders are promptly and faithfully respected and obeyed, and whenever any violation thereof is reported to him or her or comes under his or her personal observation, he or she shall promptly investigate the matter and report it to the Town Manager.

1. The Chief is authorized to summarily suspend from duty any member of the Fire Department for disobedience or misconduct, but shall immediately report such suspension, together with all the facts in the case, to the Town Manager, for his or her consideration and action.
2. The Chief or Assistant Chief shall respond to all alarms, and shall, upon arrival at the scene of the fire, at once assume command, taking every precaution for the protection of life and property.
3. The Chief shall make a monthly report to the Board of Commissioners, through the Town Manager, of the number of volunteer firefighters attending fires. He or she shall visit each Department station in the service as often as practicable and see that the quarters are in good order and well cared for.
4. He or she shall have authority at all times, day or night, in the performance of the duties imposed by this code or any other ordinances of the town, to enter upon and examine any building or premises where a fire has occurred and other buildings or premises adjoining or near thereto.
5. The Fire Prevention Code, adopted by reference in § 93.15, shall be enforced by the Chief of the Fire Department.

('70 Code, 2009 S-5 Supplement, § 10-28)

(d) It shall be the duty of the Chief of the Fire Department to investigate as required by G.S. § 69-1, the cause, origin, and circumstances of every fire occurring in the town and to ascertain whether such fire was the result of carelessness or design. Such investigation shall be made within three days, not including Sunday, after the occurrence of each fire, and within one week thereafter he or she shall furnish to the State Attorney General a written statement of all facts relating to the cause and origin of the fire, the kind, value, and ownership of the property destroyed, and such other information as may be called for by the blanks furnished by the State Attorney General. He or she shall keep records giving the time, date, and location of the fire, the owner or lessee of the property, the amount of loss, the amount of insurance and the result of his or her investigation as to the cause, origin, and circumstances of such fire.

('70 Code, 2009 S-5 Supplement, § 10.29)

(e)

(1) Training. The Chief of the Fire Department shall four (4) hours monthly of suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings in the fire district, fire prevention, water supplies, and all other matters generally considered essential to good firemanship and safety of life and property from fire.

(2) Duties as to arson. The Chief of the Fire Department is required to assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin, and circumstances of all fires.

(3) Records. The Chief of the Fire Department shall see that complete records are kept of all fires, inspections, apparatus and minor equipment, personnel, and other information about the work of the Department.

(4) Reports. The Chief of the Fire Department shall report monthly through the Town Manager to the Board of Commissioners the condition of the apparatus and equipment; the number of fires during the month, their location and cause, and date thereof and loss occasioned thereby; the number and

purpose of all other runs made; and the number of members responding to each fire or other run and any changes in membership. He or she shall also make a complete annual report through the Town Manager to the Board of Commissioners within one month after the close of the fiscal year, such report to include the information specified in division (E)(3) of this section, together with any other information that he or she may deem necessary or appropriate.

('70 Code, 2009 S-5 Supplement, § 10-30); (Ord. 16, passed 8-3-43)

***Statutory reference:*** *Duties of Fire Chief, see G.S. § 160A-292*

### SECTION 13-55. – ASSISTANT CHIEF; OTHER OFFICERS OF DEPARTMENT

(a) The Assistant Chief and all other Fire Department officers shall be nominated by the Fire Chief, for appointment by the Town Manager.

(b) In the absence of the Chief the officer next in authority shall assume command.

('70 Code, 2009 S-5 Supplement, § 10-31) (Ord. 16, passed 8-3-43)

### SECTION 13-56. – PURCHASE OF EQUIPMENT

Recommendations of apparatus and equipment needed by the Fire Department shall be made by the Chief of the Fire Department, through the Town Manager, to the Board of Commissioners, and after approval by the Board of Commissioners such equipment shall be purchased in such manner as shall be designated by the Board of Commissioners.

('70 Code, 2009 S-5 Supplement, § 10-21) (Ord. 16, passed 8-3-43)

### SECTION 13-57. – INSIGNIA FOR VEHICLES OF MEMBERS OF DEPARTMENT

Each member of the Fire Department driving a privately-owned car shall be issued a suitable insignia to be attached to the car.

('70 Code, 2009 S-5 Supplement, § 10-22) (Ord. 16, passed 8-3-43)

### SECTION 13-58. – UNAUTHORIZED ENTRY INTO PLACES WHERE APPARATUS KEPT

No person shall enter any place where fire apparatus or equipment of the town is kept housed or handled unless accompanied by, or having special permission of, an officer or authorized member of the Fire Department.

('70 Code, 2009 S-5 Supplement, § 10-23) (Ord. 16, passed 8-3-43)

### SECTION 13-59. – ORGANIZATION; ORDER IN WHICH UNITS RESPOND TO ALARMS

The Fire Department shall have such number and type of fire companies and other units as may be established by the Chief of the Fire Department, with the concurrence of the Town Manager and subject to approval of the Board of Commissioners. The Chief of the Fire Department shall prescribe the order in which units shall respond to alarms.

('70 Code, 2009 S-5 Supplement, § 10-25) (Ord. passed 8-3-43)

### SECTION 13-60. – FIREFIGHTING SERVICES BEYOND TOWN LIMITS

(a) Department is member of state volunteer fire department. The Board of Commissioners, pursuant to the provisions of G.S. § 69-17, does hereby resolve to accept and endorse the provisions of G.S. Ch. 69, Art. 3.

('70 Code, 2009 S-5 Supplement, § 10-32)

(b) Persons authorized to grant permission to respond to calls. Pursuant to the provisions of G.S. § 69-19, the Chief of the Fire Department is designated as the person who shall have authority to dispatch personnel and equipment to respond to calls beyond the limits of the town. The two alternates, in the absence or disability of the Chief, shall be, in order of seniority, the two members of the Department next in rank below the Chief.

(c) Disposition of revenue. Fees paid for the rendition of fire service beyond the town shall be disposed of as follows: one-half shall be paid to the Fire Department for its use, and one-half shall be paid into the General Fund of the town.

('70 Code, 2009 S-5 Supplement, § 10-34) (Ord. passed 1-5-54; Am. Ord. passed 3-9-56)

(d) Cases for which authorized. No firefighting service shall be rendered beyond the town limits except in the following cases:

(1) To protect property within the town threatened by fire outside of the town.

(2) To protect municipally-owned property located outside of the town.

(3) To go to the aid of another municipality threatened with disaster, when requested to do so by a duly authorized official of such municipality.

(4) To protect the property of any person upon request, and subject to a fee of an amount set by the Board of Commissioners.

('70 Code, 2009 S-5 Supplement, § 10-35) (Ord. passed 4-7-53)

(e) Geographical area authorized; exceptions. The geographical area within which firefighting services may be rendered beyond the town limits shall extend only five miles in all directions beyond the town, as such area is deemed to be the area in which the Fire Department could, with safety to the town, render such fire protection service. No fire service shall be rendered beyond the area herein described, except to protect municipally-owned property or to answer the call for aid from an adjoining municipality.

('70 Code, 2009 S-5 Supplement, § 10-36) (Ord. passed 4-7-53; Am. Ord. passed 11-4-64)

***Statutory reference:*** *Fire protection outside municipal limits, see G.S. § 160A-293;State Volunteer Fire Department; participation by municipalities, see G.S. § 69-17*

## SECTION 13-61. – SERVICE EQUIPMENT TO RETIRING FIREFIGHTERS

Any firefighter that has worked for at least a total of 20 years for the town will be presented with his/her fire helmet at retirement.

(Ord. 05-04, passed 2-1-05)

## SECTIONS 13-62. – 13-70. - RESERVED

## ARTICLE 2. GENERAL PROVISIONS

### SECTION 13-71. – OBEDIENCE TO ORDERS AT SCENE OF FIRE.

Every person present at a fire shall be subject and obedient to the orders of firemen and police officers in any matter relating to extinguishing the fire, removal and protection of persons and property endangered by fire, smoke, or water, the freedom of Fire Department personnel and apparatus to perform their duties or to function properly, and the maintenance of order at or near the scene of the fire, and it shall be unlawful for any person to disobey any such order of a fireman or police officer. Police officers shall have authority to arrest persons who disobey such orders and to hold them in custody until the fire has been extinguished, at which time the violators shall be dealt with according to law.

('70 Code, 2009 S-5 Supplement, § 10-2)

### SECTION 13-72. – UNAUTHORIZED RIDING ON FIRE DEPARTMENT VEHICLES.

It shall be unlawful for any person not a member of the Fire Department to ride upon any vehicle or apparatus of the Fire Department while it is on the way to or returning from a fire except by authority of the Town Manager or Chief of the Fire Department.

('70 Code, 2009 S-5 Supplement, § 10-3)

### SECTION 13-73. – LOITERING AT FIRE STATIONS.

It shall be unlawful for any person not a member of the Fire Department to loiter in or near any fire station within the town.
('70 Code, 2009 S-5 Supplement, § 10-4)

### SECTION 13-74. – SPECTATORS AT FIRES.

Spectators shall remain at a safe distance from the scene of any fire and shall so conduct themselves as not to interfere in any way with firemen and others who are engaged in extinguishing the fire or protecting persons or property or performing other lawful duties at the scene of the fire.
('70 Code, 2009 S-5 Supplement, § 10-1)

### SECTION 13-75. – OBSTRUCTING FIRE ESCAPE PROHIBITED; NOTICE TO REMOVE.

It shall be unlawful for any person to place any obstruction upon, or in such manner as to block access to, any fire escape, balcony, ladder or other thing intended as a means of escape from fire. It shall be the duty of all firemen and police officers upon their discovery of any such obstruction to report it through administrative channels to the Chief of the Fire Department, who shall promptly notify the owner or occupant of the property involved and order him to remove such obstruction forthwith, and it shall be unlawful for any owner or occupant so notified to fail to comply with such order.
('70 Code, 2009 S-5 Supplement, § 10-5)

### SECTIONS 13-76. – 13.80. – RESERVED.

## ARTICLE 3. FIRE PREVENTION CODE

### SECTION 13-81. – ADOPTION.

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, there is hereby adopted that certain code known as the Fire Prevention Code recommended by the American Insurance Association, being particularly the most current edition thereof and the whole thereof, save and except such portions as may be deleted, modified, or amended by this subchapter; and such code, a copy of which is and shall remain on file in the office of the Town Clerk, is hereby incorporated in and made a part of this section as though it were set out herein in full, and the provisions thereof shall be controlling within the town.
('70 Code, 2009 S-5 Supplement, § 10-6)

### SECTION 13-82. – TITLE.

The Fire Prevention Code adopted by this subchapter shall be known and may be cited as the Fire Prevention Code.
('70 Code, 2009 S-5 Supplement, § 10-7)

### SECTION 13-83. – DEFINITIONS.

(A) Wherever the term ***BUREAU OF FIRE PREVENTION*** is used in the Fire Prevention Code it shall be construed to mean the Chief of the Fire Department.

(B) Wherever the term ***CHIEF OF THE BUREAU OF FIRE PREVENTION*** is used in the Fire Prevention Code it shall be construed to mean the Chief of the Fire Department.

(C) Wherever the term ***CORPORATION COUNSEL*** is used in the Fire Prevention Code it shall be construed to mean the Town Attorney.

(D) Wherever the word ***MUNICIPALITY*** is used in the Fire Prevention Code, it shall be construed to mean this town.
('70 Code, 2009 S-5 Supplement, § 10-8)

### SECTION 13-84. – FIREWORKS.

G.S. Chapter 14 Article 54 shall govern in this area.
('70 Code, 2009 S-5 Supplement, § 10-9)

### SECTION 13-85. – ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH STORAGE OF EXPLOSIVES AND BLASTING AGENTS IS PROHIBITED.

The limits referred to in this Chapter, as amended from time to time, of the Fire Prevention Code, in which storage of explosives and blasting agents is prohibited, are hereby established as the corporate limits of the town.
('70 Code, 2009 S-5 Supplement, § 10-10)

### SECTION 13-86. – ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH STORAGE OF FLAMMABLE LIQUIDS IN OUTSIDE ABOVEGROUND TANKS IS PROHIBITED.

(a) The limits referred to in this Chapter, as amended from time to time, of the Fire Prevention Code, in which storage of flammable liquids in outside aboveground tanks is prohibited, are hereby established as the corporate limits of the town.

(b) The limits referred to in this Chapter as amended from time to time of the Fire Prevention Code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established as the corporate limits of the town.

('70 Code, 2009 S-5 Supplement, § 10-11)

### SECTION 13-87. – ESTABLISHMENT OF LIMITS IN WHICH BULK STORAGE OF LIQUEFIED PETROLEUM GASES IS RESTRICTED.

The limits referred to in Section 13-86(a), as amended from time to time of the Fire Prevention Code, in which bulk storage of liquefied petroleum gas is restricted, are hereby established as the corporate limits of the town.
('70 Code, 2009 S-5 Supplement, § 10-12)

### SECTION 13-88. – PERMITS.

(a) All permits required or authorized by the Fire Prevention Code shall be issued by the Fire Department under the direction of the Chief of the Fire Department. Each permit shall be valid for the period of time specified therein, not to exceed one year, and may be made subject to renewal; provided, that where an annual license is required by the town in addition to a permit required by the Fire Prevention Code, a permit may be issued for an indefinite period.

(b) The Town Manager, in consultation with the Chief of the Fire Department, may promulgate a schedule of fees for the issuance of permits and making of inspections required or authorized by the Fire Prevention Code, and such schedule, when approved by the Board of Commissioners and placed on file in the office of the Town Clerk, shall govern the fees to be charged by the town for the permits and inspections to which they are thereby made applicable.

('70 Code, 2009 S-5 Supplement, § 10-13)

### SECTION 13-89. – MODIFICATIONS.

Prevention Code upon application in writing by the owner or lessee of any property affected thereby, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code; provided, that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the Department and a signed copy shall be furnished the applicant.
('70 Code, 2009 S-5 Supplement, § 10-14)

### SECTION 13-90. – APPEALS.

Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Fire Prevention Code do not apply or that the true intent and meaning of that code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the Board of Commissioners within 30 days from the date of the decision from which the appeal is taken.
('70 Code, 2009 S-5 Supplement, § 10-15)

### SECTION 13-91. – NEW MATERIALS, PROCESSES, OR OCCUPANCIES WHICH MAY REQUIRE PERMITS.

The Town Manager, the Chief of the Fire Department, and the Building Inspector shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes, or occupancies, which shall require permits, in addition to those now enumerated in the Fire Prevention Code. The Chief of the Fire Department shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons.
('70 Code, 2009 S-5 Supplement, § 10-16)

### SECTION 13-92. – VIOLATIONS.

(a) No person shall violate any of the provisions of the Fire Prevention Code or fail to comply therewith, violate or fail to comply with any order made thereunder, or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or fail to comply with such an order as affirmed or modified by the Board of Commissioners or by a court of competent jurisdiction, within the time fixed for such compliance. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of any penalty shall not be construed to prevent the enforced removal of prohibited conditions.

('70 Code, 2009 S-5 Supplement, § 10-17)

### SECTIONS 13-93. – 13.100. – RESERVED.

## CHAPTER 3. – CIVIL EMERGENCIES

### SECTION 13-101. – STATE OF EMERGENCY; RESTRICTIONS AUTHORIZED.

A state of emergency shall be deemed to exist whenever during times of great public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property. Policy shall be as follows:

a) In an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the town or threatening damage to or destruction of property, the Mayor of the town is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency and, in order to more effectively protect the lives and property of people within the town, to place in effect any or all of the restrictions authorized in this section.

b) The Mayor is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the corporate limits of the town and to specific hours of the day or night and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies and newspaper, magazine, radio broadcasting and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the town.

c) The Mayor shall proclaim the end of such state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the Board of Commissioners.

d) During the existence of a proclaimed state of emergency, the Mayor may impose by proclamation any or all of the following restrictions:

(1) Prohibit or regulate the possession off one's own premises of explosives, firearms, ammunition or dangerous weapons of any kind and prohibit the purchase, sale, transfer or other disposition thereof;

(2) Prohibit or regulate the buying or selling of beer, wine or intoxicating beverages of any kind and their possession or consumption off one's own premises;

(3) Prohibit or regulate any demonstration, parade, march, vigil or participation therein from taking place on any of the public ways or upon any public property;

(4) Prohibit or regulate the sale of gasoline, kerosene, naphtha or any other explosive or inflammable fluids or substances;

(5) Prohibit or regulate travel upon any public street, alley or roadway or upon any other public property, except by those in search of medical assistance, food or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof;

(6) Prohibit or regulate the participation in or carrying on of any business activity and prohibit or regulate the keeping open of places of business, places of entertainment and any other places of public assembly.

e) Any proclamation may be extended, altered or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.

f) During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this section.

g) The violation of any provision of this section or of any provision of any restriction imposed by any proclamation authorized by this section shall constitute a misdemeanor, punishable in accordance with the provisions of section 1-12

***State Law Reference—*** *Authority to deal with states of emergency, G.S. § 14-288.12; town and county financial support for rescue squads, G.S. § 160A-487; North Carolina Emergency Management Act, G.S. § 166A-1 et seq.*

### SECTION 13.102. – LIMITATIONS AND EXEMPTIONS AUTHORIZED IN PROCLAMATION.

The Mayor is authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the limits of the town and to specific hours of the day or night; and to exempt from all or any part of such restrictions law enforcement officers, firefighters and other public employees, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the town.

### SECTION 13.103. – EXTENSION, AMENDMENT AND REPEAL OF PROCLAMATION.

Any proclamation may be extended, altered or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.

### SECTION 13.104. – AUTHORITY TO REQUEST STATE POLICE AND MILITARY FORCES; WHEN PROCLAMATION OF MARTIAL LAW MAY BE RECOMMENDED TO GOVERNOR.

If, in the sound discretion of the Mayor, it shall appear that the emergency is or that the threatened emergency is likely to be of such proportions that the means available to the town to maintain law and order are insufficient for such purpose, the Mayor shall, promptly and by the most expeditious means of communication, inform the governor of the situation and request that such necessary police or military forces of the state be provided promptly; and if, during an actual state of emergency, the Mayor shall find that the civil courts having jurisdiction within the town are unable to perform their lawful duties and that, by reason of widespread lawlessness, writs and other processes cannot be served or executed in the town, the Mayor shall inform the governor of such findings and may recommend to the governor that a state of martial law be proclaimed to exist within the town.

### SECTION 13.105. – TERMINATION OF RESTRICTIONS AND OF EMERGENCY.

The Mayor shall proclaim the end of such state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the Board of Commissioners.

### SECTION 13.106. – REQUIRED COMPLIANCE WITH PROCLAMATION.

During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this chapter.

***State Law Reference—*** Authority to enact ordinances to deal with states of emergency, G.S. 14-288.12; authority to tax therefor, G.S. 160A-209(c)(9); county and municipal emergency management, G.S. 166A-7.

### *SECTION 13.107. – 13.120. – RESERVED.*

# TITLE 14. – PUBLIC WORKS: MUNICIPAL WATER AND WASTEWATER

## CHAPTER I. - GENERAL

### SECTION 14-1 – DEFINITIONS.

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

***Improved Property***: Property on which a structure is located.

***Improved Street***: Any street having a wearing surface of concrete, asphalt, brick, stone brick, or tar treatment of similar hard material.

***Lateral***: A pipe connecting a sanitary sewer, water main or other utility main with the line of adjacent property of extending from the main to the inside of the curb.

***Multi-User:*** Any use where there is more than one structure on a single meter or where there is one structure containing multiple residential (dwelling) units such as hotels, motels and condominiums.

***Person***: Any person, firm or corporation.

***Sewer***: Sanitary sewer.

***Single-User:*** Any use on a single meter not included in the multi-user definition above.

***Structure:*** By way of illustration and not by way of limitation, any dwelling cottage, dwelling house, apartment house, hotel, motel, house trailer, mobile home, commercial building, office building, rooming house, or any unit in a group housing development, planned unit development, townhouse, condominium development, motorized home, self-contained travel trailer, travel trailer, or other structure.

***Subdivider***: Any person, firm or corporation who subdivides or develops any land within the town's designated zoning jurisdiction, including the extraterritorial jurisdiction. For the purposes of this chapter, a subdivider may or may not be the owner of the property in question, but is responsible for its development in accordance with the other regulations of the town.

***Unimproved Street***: Any street having a dirt surface.

***Utility System or Utility***: Any water, sewer or other utility system owned or operated by the town.

### SECTION 14-2 – PURPOSE.

The purpose of this chapter is to provide a set of standard procedures for the normal operation of the town drinking water treatment and distribution system and wastewater collection and treatment system.

### SECTION 14-3 – AUTHORITY.

The Town has the authority to own and operate a drinking water and/or a wastewater (sewer) system under the North Carolina General Statutes. The Public Works Director shall have the responsibility and authority to manage this department.

***State Law Reference:*** Public Enterprises, G. S. § 160A-311.

### SECTION 14-4 – WHEN COMMON METERS PERMITTED.

Except as hereinafter provided in this Chapter, each separate structure within the town shall be required to have an individual water meter and sewer service connection. A common water connection, sewer connection and/or meter will be permitted to serve more than one building of the following categories:

(a) Unit ownership (condominium developments); and

(b) Hotels and motels.

Provided, when real property is or becomes separately owned within any of the categories listed above, a common meter shall be permitted only when the separate owners of the real estate designate in writing a single person or entity to be responsible for payment of all water and sewer charges. This designation must be on file with the Town.

### SECTION 14-5 – APPLICATION FOR SERVICE REQUIRED.

Any person desiring water or sewer utility service furnished by the Town shall make application to the Town. Such application shall contain the applicant's name, owner's name if different from the applicant, applicant and owner contact information, physical location of the unit to be served, the uses for which the utility is desired and any other information deemed necessary by the Town.

This requirement shall apply to all new accounts established after the date of adoption of this ordinance.

### SECTION 14-6 – CONNECTION REQUIRED.

When improved property is located within the town limits and upon or within a distance of 200 feet from any water line or sewer collection line deemed adequate and appropriate by the Town to provide such service, the owner or owners of the improved property are required to connect to Town service within six (6) months of notice given. The owners shall be charged for the connection and shall pay for the connection in full at the time of application.

If any provision of this section conflicts with previous ordinances included in this chapter, this section shall be paramount.

Provided further that:

(a) Any residential dwelling or business abandoning use of a septic tank within the Town of Red Springs and making connection to the town's sewer system shall be required, within six (6) months of connection, to remove all matter from the tank, collapse the tank (or remove in its entirety), fill the area with soil and compact. A sewer tap fee must be paid before said connection is made.

(b) Any residential dwelling or business abandoning use of a well within the Town of Red Springs and making connection to the Town's water system will be required to pay a water tap fee before said connection is made.

***State Law Reference:*** Power to require connections, G. S. § 160A-317; Authority to fix and enforce rates, G.S. § 160A-314.

### SECTION 14-7 –TAMPERING, DAMAGE AND UNLAWFUL CONNECTIONS.

It shall be unlawful for any person, except authorized persons, to:

(a) Cut, break, obstruct, damage, change, alter or otherwise interfere or tamper with in any manner, any buildings, wells, reservoirs, pipes, main, hydrant, water tank or connections or any other thing being a part of the waterworks, sewer or other utility system of the town;

(b) Make any connection to the town's utility systems, except as provided for, or to knowingly permit same to be done on their premises or premises in their possession or control as agent to knowingly use water from such unauthorized connection;

(c) As an authorized consumer, supply water to other persons or to carry water from any authorized connection, or from any hydrant, watering trough or public fountain without the consent of the town.

### SECTION 14-8 –UNLAWFUL USE.

No person, other than employees of the Town, shall be authorized to connect, turn on, turn off or disconnect water or sewer service provided by the Town or remove, replace or repair any equipment connected to these utility services. It shall be unlawful for any person to resell to others water or wastewater services except by express authorization by the Town.

***State Law Reference:*** Injury to water supply misdemeanor, G.S. 143-152.

### SECTION 14-9. – PENALTY FOR DAMAGE AND TAMPERING

If a water meter is found to have been damaged or tampered with, service will be disconnected and will not be reinstated until all damage and tampering charges have been paid in full along with any delinquent bill.

***State Law Reference:*** Interfering with gas, electric or water meters, G.S. 14.151.1.

### SECTION 14-10. – 14-15. –RESERVED

## CHAPTER 2. EXTENSION OF WATER OR SEWER OUTSIDE OF TOWN

### SECTION 14-16 – GENERAL.

The policy of the town regarding furnishing water and sewer outside the corporate limits of the town is as follows.

a) The town will extend its water and sewer lines in appropriate size to its corporate limits.

b) The person desiring extension of the town's water and sewer lines outside of the town shall be known as the "Extender". The Extender shall cause to be prepared plans and specifications for the extension of the town's water and sewer mains to and within the Extender's property and same shall be approved by the town, its engineer and the appropriate state regulatory agencies. The work shall be performed to the approval of a NC Licensed Professional Engineer paid by the extender and overseeing the Extender's project, who shall present to the Town of Red Springs and the appropriate state regulatory agencies a Certificate of Completion along with "as-built" plans and specifications of the work.

c) The extender shall furnish all materials and fittings and shall perform all labor to construct water and sanitary sewer mains, service laterals and meter setters on portions of his or her property in accordance with the approved locations, plans and specifications. All meters shall be furnished and installed by the town.

d) Water and sewer tapping fees and service lateral charges shall be collected by the town in accordance with its standard charges for service connections between water and sanitary sewer mains and structures along the utility mains for each structure served.

e) Water and sewer services will be supplied to structures in accordance with the town's rules, regulations, and rate schedules applicable to its out-of-town service and in effect at the time of application for service, subject to charges as may be made by the Town Board. The plumbing code, and other applicable codes in effect in the town from time to time, shall apply to all plumbing installed in structures on the Extender's property and between meters and the structures

f) Commencement of water and sewer service by the town through any water or sewer mains and any extensions made thereto, shall result in all mains and meters becoming the sole property of the town who will repair, maintain, and service all facilities.

(g) The Extender shall agree for himself or herself and all his or her heirs, personal representatives, and assigns, that the town shall have the right, in its discretion, to extend its corporate limits to include any portion or all of the land in which the town is furnishing water and sanitary sewer to the extent and in a manner provided by law.

(h) It shall be understood with the extender and his or her heirs, personal representatives, and assigns, or, in the event the extender is a corporation, with its successors and assigns, that in no event shall the town be subject to any liability whatsoever as a result of the water and sewer services rendered or the failure for any reason to render the services.

(i) The town reserves the right to refuse to extend its water and sewer lines beyond its corporate limits.

### SECTION 14-17 – 14-20 RESERVED

## CHAPTER 3. RATES AND CHARGES

### SECTION 14-21 – GENERAL.

The following shall be the policies and rules of the Town of Red Springs regarding rates and charges for water and sewer services provided by the Town.

### SECTION 14-22 – SCHEDULE OF RATES AND FEES.

From time to time, the Board Council shall adopt and place into effect a *Schedule of Rates and Fees* covering the water and wastewater utilities of the Town. Such schedule may be included as part of the annual budget ordinance.

### SECTION 14-23 – DEPOSIT REQUIRED.

A deposit shall be required for all accounts established with the Town of Red Springs for water or sewer service. Deposits are required to ensure the payment of water and sewer bills due and to secure the Town against loss. The policy for deposits shall be as follows:

a) A separate deposit shall be required for each meter installed.

b) The deposit amount for residential customers will be established as part of the Schedule of Rates and Fees.

c) The deposit amount for non-residential customers will be established as part of the Schedule of Rates and Fees.

d) The deposit amounts for customers providing their Social Security Number may be different from the deposit of a customer who does not provide this information.

e) The amount shall remain on deposit with the Town of Red Springs as a guarantee for payment of water and sewer usage. When separating from the Town, the Town shall apply the deposit against the amount due on the customer's final bill.

f) The deposit shall be made in the name of the account holder.

g) The monthly statement for water and sewer service shall be mailed to the account holder and that person shall be responsible for payment of all water and/or sewer statements in accordance with G.S. 160A-314(c).

h) The town reserves the right to hold any deposit until all bills and penalties have been paid. When closing an account, the town reserves the right to hold any deposit until the account has been audited.

i) All security deposits are non-interest bearing.

***State Law Reference**: Enforcement of utility charges, see G.S. § 160A-314.*

### SECTION 14-24 – WATER AND SEWER TAP-ON FEES.

Water and sewer tap-on fees, unless exempted by this Chapter, shall be paid prior to using the town's services. These fees, as established from time to time by the Board of Commissioners, shall be based on the number of structures served by the connection.

***State Law Reference:** Connection charges, see G.S. § 160A-317*

### SECTION 14-25 – AVAILABILITY AND ADMINISTRATIVE FEE.

Every lot with a residential structure, permanent, mobile or otherwise, that is not connected to the Town's water and sewer utilities shall be charged a monthly availability fee for water and sewer service provided that such availability fee shall not exceed the minimum charges for water and sewer services to customers connected to the Town's systems. Every lot that is connected to the Town's water and sewer utilities shall be subject to an administrative charge which applies at the zero consumption level provided that such administrative fee shall not exceed the minimum charges for water and sewer services. Such charges shall be established by the Board of Commissioners in the Schedule of Rates and Fees.

***State Law Reference**: G.S. 160A-317.*

### SECTION 14-26 – TRANSFER FEE.

If the utility billing name is transferred, a transfer fee shall be paid by the new occupant or lessee. Such charge shall be included in the *Schedule of Rates and Fees.*

### SECTION 14-27. – 14-30. – RESERVED.

## CHAPTER 4. BILLING AND PAYMENTS

### SECTION 14-31 – GENERAL.

When a water meter is installed by the town, the customer will, from the date of the installation of the meter, be billed for water and sewer in accordance with the town's current rates. All customers shall be billed monthly by the town for water and sewer services according to the *Schedule of Rates and Fees* fixed from time to time by the Board of Commissioners.

***Statutory reference:** Authority to fix and enforce rates, see G.S. § 160A-314*.

### SECTION 14-32 – BILLING CYCLE.

The Town of Red Springs has established a cycle for reading of meters, preparation and mailing of the bills and times at which the billing is due and payable to the Town, and at which late charges and penalties shall be assessed.

a) All bills for water and sewer utility service furnished by the town shall be due and payable when issued. This will generally be the first day of the month except when that date falls on a weekend or holiday. Bills become delinquent if not received in Town Hall by 5:00 p.m. on the tenth (10th) day of the month and shall bear a penalty in the amount set by the Board of Commissioners, and in addition, the town shall but off utility service to the customer as set forth below to whom the bill relates and a disconnection fee in an amount set by the Board of Commissioners shall be added to the bill. Due dates that fall on Saturday, Sunday, or a legal holiday observed by the town, then the billing shall be due and payable on the first business day which proceeds any weekend or holiday as designated by the town.

b) Notice of the due date and the penalty for non-payment shall be provided to the account holder either by mail notice or shall be printed on the face of the bill.

c) No second notices shall be sent.

d) Utility bills which are in arrears on the nineteenth day ($19^{th}$) of any month may be collected either by lawsuit in the name of the town or by the Tax Collector. Due dates that fall on the weekend or any holiday as designated by the town will be due and payable on the first business day that proceeds any weekend or holiday as designated by the town.

e) Failure to receive bills or notices does not prevent such bills from becoming delinquent, nor relieve the account holder from payment.

f) Any account holder with a delinquent account may not open a new account at another location until the delinquent account has been satisfied. If the amount in arrears is significant, a payment plan may be established. Failure to honor the terms of the payment plan and/or failure to keep the new account current will result in termination of service.

(Res. #09-35, 12-1-2009)

### SECTION 14-33 – ADJUSTMENT OF CHARGES.

A water and sewer customer requesting an adjustment shall be required to furnish a statement by a licensed plumber stating the nature of the water/sewer problem and a copy of a paid bill, or obtain the approval of the town's Public Works Director prior to presenting his or her request to the Town Clerk.

The Board of Commissioners shall, in its discretion, adjust water and sewer bills and, in adjusting same, the following formula shall be used: The entire water bill shall be paid, plus the amount of the sewer charges for the corresponding period for the previous year.

### SECTION 14-34 – ADVANCE PAYMENTS.

A water customer can pay his or her water and sewer bill in advance by making a deposit with the town, to be applied against his or her bills until the deposit is exhausted or by the town drafting on the customer's account.

### SECTION 14-35 – FORM OF PAYMENT.

The Town of Red Springs will accept payment for utility services in any commercially reasonable manner.

### SECTION 14-36 – PENALTY FOR WORTHLESS CHECKS.

The following provisions apply for worthless checks:

a) In the case where a water and/or sewer customer gives the town two checks which cannot be honored upon presentation (Non-Sufficient Funds – NSF), the Town will not accept any further personal checks from the customer and will require the customer to pay with cash, certified check, cashier’s check or money order;

b) If the bill is delinquent for which the NSF check has been submitted, service will be discontinued immediately without further notice;

c) Personal checks will not be accepted from a customer whose services have been discontinued for non-payment.

### SECTION 14-37. – 14-40. – RESERVED.

## CHAPTER 5. DISCONNECTION AND RECONNECTION OF UTILITY SERVICE

### SECTION 14-41 – GENERAL.

It is the policy of the Town of Red Springs, before disconnecting a utility service, to give the customer a fair opportunity to avoid disconnection either by paying charges due or showing that the charges are in error. Under this policy, the customer has the right to request adjustments to his or her billing only one time per calendar year and only with acceptable proof.

a) Service disconnections will be made between the hours of 8:30 a.m. and 3:00 p.m. on business days from Monday through Thursday only. Customers will be subject to a service fee for disconnection of the water service which shall be established in the *Schedule or Rates and Fees* as soon as a Town employee is dispatched to make the disconnection.

b) Customers who have paid in full the past amounts due including any late charges and penalties are eligible to have the water service reconnected. Customers will be subject to a reconnection fee which shall be established in the *Schedule or Rates and Fees.* The Town shall reestablish water service as soon as possible after receipt of the payment.

***State Law Reference***: G.S. 160A-314(b).

### SECTION 14-42 – CUSTOMER REQUEST TO TURN WATER ON OR OFF.

There will be a service charge for turning the water on or off at the request of the customer. Such charge shall be included in the *Schedule of Rates and Fees.*

### SECTION 14-43. – 14-50. – RESERVED.

## CHAPTER 6. IRRIGATION WATER METERS

### SECTION 14-51 – GENERAL.

The following policies shall apply to irrigation meters.

a) Any water and sewer customer of the town may request and have an irrigation water meter installed.

b) The connection fee shall be the same charge applicable to water customers of the Town.

c) A back-flow prevention device shall be installed and the customer shall be charged the cost of purchasing and installing the device.

d) Irrigation water meter customers shall be billed monthly in accordance with the *Schedule of Rates and Fees.*

e) The town reserves the right to draw water from faucets located inside and outside any structure located on property utilizing an irrigation water meter to facilitate usage checks and to ensure that no water is allowed to drain into the town's sewer system

f) No customer utilizing an irrigation water meter shall intentionally allow water pumped through the meter to enter the town's sewer system.

### SECTION 14-52. – 14-55. – RESERVED.

## CHAPTER 7. RIGHT TO SUSPEND SERVICE

### SECTION 14-56 – GENERAL.

The Town of Red Springs reserves the right to discontinue its service without notice for the following additional reasons:

a) To prevent fraud or abuse;

b) Owner/customer's willful disregard of the town's rules and regulations;

c) Making of connection to the system or emergency repairs to municipal property;

d) Circumstances beyond the town's control;

e) Legal process;

f) Direction of public authorities having jurisdiction over such matters; and

g) Strike, riot, fire, flood, accident or any unavoidable cause.

### SECTION 14-57. – 14-60. – RESERVED.

## CHAPTER 8. WATER SHORTAGE RESPONSE PLAN

### SECTION 14-61. – SCOPE AND INTENT.

(a) The following measures in this water shortage response plan (WSRP) shall be enforced by the town manager or his designee upon the determination of a water shortage. All municipalities, water corporations, or water authorities purchasing water from the town will adopt and enforce this WSRP as a condition of water sales agreements. Upon the declaration of a water shortage, all such entities will enforce the appropriate water use restrictions or percent reduction goals for each phase of response to a water shortage.

(b) Generally, the town manager shall issue a water shortage advisory (initiating voluntary phase of reductions of water usage), water shortage alert (initiating mandatory phase of restrictions of water usage), or water shortage emergency declaration (initiating emergency phase of restrictions, bans, or rationing of water usage). Depending on the specific water shortage occurrence, the issuance of advisories, alerts, or emergency declarations may be system-wide or limited to portions of the water system affected by the specific occurrence.

(c) Water shortage advisories, alerts, or emergency declarations may be issued for a variety of reasons. They include, but are not limited to, the following:

(1) Contamination of well(s), raw water main(s), or potable water main(s);

(2) Drought conditions;

(3) Break in a potable water main that supplies a significant portion of the water system;

(4) Removal of elevated or other storage tanks for extended maintenance;

(5) Equipment malfunction or failure, removal of wells from service, or other occurrences significantly affecting the town's capability of delivering raw water or adequately treating the raw water;

(6) Power failure significantly affecting the town's capability of delivering raw water or adequately treating the raw water.

(d) Guidelines to be used to assess the need for advisories, alerts, or emergency declarations include, but are not limited to, the following:

(1) *Voluntary phase:*

a. Wells are operating in excess of twelve (12) hours daily to supply the system demand;

b. Ten (10) percent or more of the wells have been removed from service for any reason, or the pumping capacity of a majority of the wells has been significantly diminished for an extended period;

c. Power failure, affecting the water treatment plant or a significant portion of the wells, which Superintendent has estimated will last more than 24 hours;

d. Contamination of or breaks in potable water mains, extended maintenance or repair, or other occurrences requiring more than a few days or extraordinary means to satisfactorily resolve.

(2) *Mandatory phase:*

a. Voluntary phase measures and reductions have not achieved the desired goals, drawdown levels continue to increase, and pumping capacity continues to diminish;

b. Twenty (20) percent or more of the wells have been removed from service for any reason, or the pumping capacity of a majority of the wells has been significantly diminished for an extended period.

(3) *Emergency phase:*

a. Voluntary or mandatory phase measures and reductions have not achieved the desired goals, drawdown levels continue to increase, and well capacity continues to diminish;

b. Thirty (30) percent or more of the wells have been removed from service for any reason, or the pumping capacity of a majority of the wells has been significantly diminished for an extended period;

c. Extended power failure that cannot be adequately addressed with available stationary or portable standby generators.

(e) For the purposes of this section, "extended period" shall mean thirty (30) days. The Water Treatment Plant ORC shall make the determination of whether or not pumping capacity has been "significantly diminished" based on available pump or well design information, flow monitoring data, and operating drawdown levels.

## SECTION 14-62. – EDUCATION AND OUTREACH PROGRAM

The town shall encourage year-round efficient use of potable water by all customers. The Water Treatment Plant ORC shall carefully monitor demand and supply and determine average daily demand as a percent of available supply, keeping an eye on regional water supply by checking on the North Carolina Drought Monitor.

## SECTION 14-63. – WATER USE CLASSIFICATIONS.

(a) *Class 1: Essential Water Uses.* The following water uses have been determined to be essential uses of potable water provided by the Town of Red Springs in the event of a water shortage:

(1) Domestic use for drinking, personal hygiene, and sanitation;

(2) Patient care/rehabilitative services;

(3) Uses to sustain human life and the lives of domestic pets;

(4) Fire fighting, fire department drills and testing;

(5) Flushing fire hydrants and public sewers as necessary to ensure public health and safety.

(b) *Class 2: Socially/economically important water uses.* The following water uses have been determined to be socially or economically important uses of potable water provided by the town in the event of a water shortage:

(1) Domestic use for laundry, cooking, and house cleaning;

(2) Industrial use to maintain jobs;

(3) Outdoor commercial watering (public or private) using conservation measures;

(4) Irrigation for commercial vegetable gardens and fruit orchards or the maintenance of livestock;

(5) Watering of trees where necessary for preservation;

(6) Watering by commercial nurseries at a minimum level necessary to maintain stock;

(7) Use of fresh water at a minimum rate necessary to establish vegetation following earth-moving, where such vegetation is required by law or regulation;

(8) Watering of golf course greens;

(9) Filling and operation of public swimming pools;

(10) Commercial car and truck washes;

(11) Commercial laundromats;

(12) Restaurants and clubs;

(13) Home vegetable gardens;

(14) Convenience stores, gas stations, and other commercial establishments;

(15) Schools and churches;

(16) Hotels, motels, and inns;

(17) Commercial air conditioning.

(c) *Class 3: Non-essential water uses.* The following water uses have been determined to be non-essential uses of potable water provided by the town in the event of a water shortage.

(1) Fountains, reflecting pools, and artificial waterfalls;

(2) Gardens, lawns, parks, golf courses (except greens), playing fields and other recreational areas;

(3) Water hoses or sprinklers for recreational purposes;

(4) Non-commercial washing of motor vehicles;

(5) Serving water in restaurants, clubs, or eating places except by specific request;

(6) Watering of inedible plants except as specified in Class 2;

(7) Filling and operation of residential swimming pools.

## SECTION 14-64. – CONSERVATION MEASURES AND WATER USE RESTRICTIONS.

(a) *Voluntary phase: water use reduction:*

(1) Review WSRP and modify as necessary;

(2) Issue water shortage advisory and increase conservation educational campaign;

(3) Ten (10) percent potable water use reduction goal (system-wide);

(4) Encourage continued voluntary conservation;

(5) Monitor compliance with voluntary water use;

(6) Explore alternatives for supplementing water supply.

(b) *Mandatory phase: water use restrictions:*

(1) Issue a water shortage alert.

(2) Twenty (20) percent potable water use reduction goal (system-wide);

(3) Encourage water use reduction for Class 2 and 3 uses;

(4) Restrict irrigation of outdoor landscaping, including grass, shrubbery, trees, flowers:

a. Irrigation shall be limited to the hours of 7:00 p.m. to 7:00 a.m.;

b. For customers whose address numbers end in an even digit, such watering shall be restricted to watering on Tuesday, Thursday, and Saturday;

c. For customers whose address numbers end in an odd digit, such watering shall be restricted to watering on Wednesday, Friday, or Sunday;

d. No irrigation shall take place on Monday or in the daylight hours of any day between 7:00 a.m. and 7:00 p.m.;

e. Exceptions to these restrictions may be granted temporarily to persons engaged in the business of landscaping on a site by site basis for one (1) to three (3) days, by permit issued by the town manager.

(5) Monitor compliance with water use restrictions and increase restrictions as necessary;

(6) Fine enforcement.

(c) *Emergency phase: water use restrictions, bans, or rationing:*

(1) Issue a water shortage emergency declaration;

(2) Thirty (30) percent potable water use reduction goal (system-wide);

(3) Ban all Class 3 uses;

(4) Ban or restrict Class 2 uses;

(5) Aggressive compliance monitoring and enforcement;

(6) Implement specific restrictions, bans, or rationing measures on industrial water customers.

## SECTION 14-65. – ENFORCEMENT.

For violations of the restrictions implemented during the mandatory or emergency phases of a water shortage, the following civil penalties are imposed:

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| First offense: $50.00 fine |
| Second offense: $100.00 fine |
| Third and succeeding offenses: $250.00 fine |

The town may disconnect the water service of any user determined to be responsible for persistent violations.

## SECTION 14-66. – 14-70. – RESERVED.

# CHAPTER 9. SEWER USE ORDINANCE

## SECTION 14-71. – PURPOSE AND POLICY.

This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection system for the **TOWN OF RED SPRINGS** hereafter referred to as the Town, and enables the Town to comply with all applicable State and Federal laws, including, the Clean Water Act (33 United States Code §1251 *et seq*.) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

(a) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge; and

(b) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system; and

(c) To promote reuse and recycling of industrial wastewater and sludges from the municipal system; and

(d) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public; and

(e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and

(f) To ensure that the municipality complies with its NPDES or Non-discharge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the municipal wastewater system is subject.

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to all users of the municipal wastewater system, as authorized by N.C.G.S. 160A-312 and/or 153A-275. The Town shall designate a Manager of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the Director of Treatment Plants. Except as otherwise provided herein, the Director of Treatment Plants shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or imposed upon the Director of Treatment Plants may be delegated by the Director of Treatment Plants to other Town personnel.

By discharging wastewater into the Town wastewater system, industrial users located outside the Town limits agree to comply with the terms and conditions established in this Ordinance, as well as any permits, enforcement actions, or orders issued hereunder.

## SECTION 14-72. – DEFINITIONS AND ABBREVIATIONS.

(a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:

(1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, et seq.

(2) Approval Authority. The Director of the Division of Water Resources of the North Carolina Department of Environment and Natural Resources or his designee.

(3) Authorized Representative of the Industrial User.

(i) If the industrial user is a corporation, authorized representative shall mean:

(A) the president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

B) the manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(ii) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.

(iii) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(iv) The individuals described in paragraphs i-iii above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town.

v) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to Director of Treatment Plants prior to or together with any reports to be signed by an authorized representative.

(4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20º centigrade, usually expressed as a concentration (e.g. mg/l).

(5) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.

(6) Bypass. The intentional diversion of waste streams from any portion of a user's treatment facility.

(7) City. Shall refer to the Town of Red Springs.

(8) Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard.

(9) Control Authority. Refers to the POTW organization if the POTW organization's Pretreatment Program approval has not been withdrawn.

(10) Director of Treatment Plants. The chief administrative officer of the Control Authority or his/her delegate.

(11) Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Manager or other duly authorized official of said agency.

(12) Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

(13) Holding Tank Waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(14) Indirect Discharge or Discharge. The discharge or the introduction from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW.

(15) Industrial User or User. Any person which is a source of indirect discharge.

(16) Interference. The inhibition, or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to violation of any requirement of the Control Authority's (and/or POTW's, if different from the Control Authority) NPDES, collection system, or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA)(42 U.S.C. §6901, *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(17) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(18) National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

(19) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in **Section 11.73** of this ordinance and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.

(20) New Source.

(1) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307(c), provided that:

(A) the building, structure, facility, or installation is constructed at a site at which no other source is located; or

(B) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(C) the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of **Section 11.72(B)** or **(C)** above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:

(A) Begun, or caused to begin, as part of a continuous on-site construction program:

1. Any placement, assembly, or installation of facilities or equipment; or
2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

(21) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(22) National Pollution Discharge Elimination System, or NPDES, Permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.

(23) Non-discharge Permit. A permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.

(24) Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the Control Authority's NPDES, collection system, Non-discharge Permit, or a downstream water quality standard even if not included in the permit.

(25) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.

(26) pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(27) Pollutant. Any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).

(28) POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.

(29) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW collection system and/or treatment plant. The reduction or alteration may be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR Part 403.6(d).

(30) Pretreatment Program. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the Town in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.

(31) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

(32) Pretreatment Standard. Any prohibited discharge standard, categorical standard, or local limit which applies to an industrial user.

(33) Publicly Owned Treatment Works (POTW) or Municipal Wastewater System. A treatment works as defined by section 212 of the Act, (33 U.S.C. §1292) which is owned in this instance by the Town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the Town who are, by contract or agreement with the Town, or in any other way, users of the POTW of the Town.

(34) Severe Property Damage. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(35) Significant Industrial User or SIU. An industrial user that discharges wastewater into a publicly owned treatment works and that:

(A) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters); or

(B) contributes process wastewater which makes up five percent or more of the NPDES or Non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, and Ammonia; or

(C) is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471; or

(D) is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any Pretreatment Standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options.

(E) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraphs (A) and (B) above has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, [or for contributing to violations of the POTW's receiving stream standard,] or for limiting the POTW's sludge disposal options, and thus is not a Significant Industrial User.

(F) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraph (C) above meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a Non-Significant Categorical Industrial Use

(G) Subject to Division approval under 15A NCAC 02H .0907(b), the Control Authority may determine that an Industrial User meeting the criteria in paragraph (C) above meets the requirements of 40 CFR Part 403.12(e)(3) and thus is a Middle Tier Significant Industrial User. Sampling and inspection requirements may be cut in half as per 40 CFR Parts 403.8 (f)(2)(v)(C).and 403.12 (e)(3).

(36) Significant Noncompliance or SNC is the status of noncompliance of a Significant Industrial User when one or more of the following criteria are met. Additionally, any Industrial User which meets the criteria in Subparagraph (a)(35), Parts (C), (D), or (H) shall also be SNC.

(A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);

(B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH);

(C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(D) Any discharge of a pollutant or wastewater that has caused imminent

endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different from the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and **Section 14.106(e)** of this SUO to halt or prevent such a discharge;

(E) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.

(F) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.

(G) Failure to accurately report noncompliance.

(H) Any other violation or group of violations that the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

(37) Slug Load or Discharge. Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in **Section 14.73** of this ordinance.

(38) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

(39) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting there from.

(40) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(41) Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(42) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

(43) Wastewater Permit. As set forth in **Section 14.4** of this ordinance.

(44) Waters of the State. All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

(b) This ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa.

(c) Shall is mandatory; may is permissive or discretionary.

(d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(e) The following abbreviations when used in this ordinance, shall have the designated meanings:

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| (1) | BOD | Biochemical Oxygen Demand |
| (2) | CFR | Code of Federal Regulations |
| (3) | COD | Chemical Oxygen Demand |
| (4) | EPA | Environmental Protection Agency |
| (5) | gpd | Gallons per day |
| (6) | l | Liter |
| (7) | mg | Milligrams |
| (8) | mg/l | Milligrams per liter |
| (9) | N.C.G.S. | North Carolina General Statutes |
| (10) | NPDES | National Pollution Discharge Elimination System |
| (11) | O & M | Operation and Maintenance |
| (12) | POTW | Publicly Owned Treatment Works |
| (13) | RCRA | Resource Conservation and Recovery Act |
| (14) | SIC | Standard Industrial Classification |
| (15) | SWDA | Solid Waste Disposal Act |
| (16) | TSS | Total Suspended Solids |
| (17) | TKN | Total Kjeldahl Nitrogen |
| (18) | U.S.C | United States Code. |

## SECTION 14-73. – PROHIBITED DISCHARGE STANDARDS.

(a) General Prohibitions. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any National, State, or local pretreatment standards or requirements.

(b) Specific Prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140ºF (60ºC) using the test methods specified in 40 CFR 261.21.

(2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one half inch (1/2") in any dimension.

(3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(4) Any wastewater having a pH less than 5.0 or more than 9.5 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.

(5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.

(6) Any wastewater having a temperature greater than 150º F (66º C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104º F (40º C).

(7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Any trucked or hauled pollutants, except at discharge points designated by the Director of Treatment Plants in accordance with section **[2.9]** of this ordinance.

(9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

(11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.

(12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director of Treatment Plants in compliance with applicable State or Federal regulations.

(13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the Director of Treatment Plants.

(14) Fats, oils, or greases in accordance with Section 2.10 of this ordinance.

(15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.

(16) Any medical wastes, except as specifically authorized by the Director of Treatment Plants in a wastewater discharge permit.

(17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.

(18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the Director of Treatment Plants.

(19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.

(20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

(21) Recognizable portions of the human or animal anatomy.

(22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.

(23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.

Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

When the Director of Treatment Plants determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the Director of Treatment Plants shall:

1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with **Section 14.106**; and

2) Take appropriate actions for such user to protect the POTW from interference or pass through.

## SECTION 14-74. – NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

(a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director of Treatment Plants may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director of Treatment Plants shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(e) A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.7.

## SECTION 14.75. – LOCAL LIMITS.

An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following average discharge limits.

| | | | |
|---|---|---|---|
| BOD | 250 | mg/l | |
| TSS | 250 | mg/l | |
| $NH_3$ | 25 | mg/l | |
| Arsenic | 0.003 | mg/l | |
| Cadmium | 0.003 | mg/l | |
| Chromium | 0.05 | mg/l | (total chromium) |
| Copper | 0.061 | mg/l | |
| Cyanide | 0.015 | mg/l | |
| Lead | 0.049 | mg/l | |
| Mercury | 0.0003 | mg/l | |
| Nickel | 0.021 | mg/l | |
| Silver | 0.005 | mg/l | |
| Zinc | 0.175 | mg/l | |

Industrial Waste Survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading are not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The Director of Treatment Plants may impose mass based limits in addition to, or in place of concentration based limits.

## SECTION 14-76. – STATE REQUIREMENTS.

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this ordinance.

## SECTION 14-77. – RIGHT OF REVISION.

The Town reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in this ordinance or the general and specific prohibitions of this ordinance, as is allowed by 40 CFR 403.4.

## SECTION 14-78. – DILUTION.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the Town or State.

## SECTION 14-79. – PRETREATMENT OF WASTEWATER.

(a) Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued this ordinance and shall achieve compliance with all National categorical pretreatment standards, local limits, and the prohibitions set out in this ordinance within the time limitations as specified by EPA, the State, or the Director of Treatment Plants, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town for review, and shall be approved by the Director of Treatment Plants before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Town under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the Director of Treatment Plants prior to the user's initiation of the changes.

(b) Additional Pretreatment Measures

(1) Whenever deemed necessary, the Director of Treatment Plants may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user’s compliance with the requirements of this ordinance.

(2) The Director of Treatment Plants may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control

facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director of Treatment Plants, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Director of Treatment Plants and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

## SECTION 14-80. – ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

(a) The Director of Treatment Plants shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges. All SIUs must be evaluated within one year of being designated an SIU. The Director of Treatment Plants may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the Director of Treatment Plants may develop such a plan for any user.

(b) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load.

(c) An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Director of Treatment Plants of any accidental or slug discharge, as required by this ordinance; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

## SECTION 14-81. – HAULED WASTEWATER.

(a) Septic tank waste may be introduced into the POTW only at locations designated by the Director of Treatment Plants, and at such times as are established by the Director of Treatment Plants. Such waste shall not violate this ordinance or any other requirements established by the Town. The Director of Treatment Plants may require septic tank waste haulers to obtain wastewater discharge permits.

(b) The Director of Treatment Plants shall require haulers of industrial waste to obtain wastewater discharge permits. The Director of Treatment Plants may require generators of hauled industrial waste to obtain wastewater discharge permits. The Director of Treatment Plants also may prohibit

the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

(c) Industrial waste haulers may discharge loads only at locations designated by the Director of Treatment Plants. No load may be discharged without prior consent of the Director of Treatment Plants. The Director of Treatment Plants may collect samples of each hauled load to ensure compliance with applicable standards. The Director of Treatment Plants may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

## SECTION 14-82. – PURPOSE OF FEES.

It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the Town for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the Director of Treatment Plants and approved by the Town Board. A copy of these charges and fees will be made available from the Director of Treatment Plants.

## SECTION 14-83. – USER CHARGES.

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

(a) The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.

(b) Each user shall pay its proportionate cost based on volume of flow.

(c) The Manager of the Town shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Council or Board serving the Town for adjustments in the schedule of charges and fees as necessary.

(d) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

## SECTION 14-84. – SURCHARGES.

The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

(a) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:

(1) Metered water consumption as shown in the records of meter readings maintained by the Town; or

(2) If required by the Town or at the individual discharger's option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance

with plans approved by the Town. The metering system shall be installed and maintained at the user's expense according to arrangements that may be made with the Town.

(3) Where any user procures all or part of his or her water supply from sources other than the Town, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by the Town.

(b) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the Town. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 146.

(c) The determination of the character and concentration of the constituents of the wastewater discharge by the Director of Treatment Plants or his duly appointed representatives shall be binding as a basis for charges.

## SECTION 14-85. – PRETREATMENT PROGRAM ADMINISTRATION CHARGES.

The schedule of charges and fees adopted by the Town may include charges and fees for:

(a) reimbursement of costs of setting up and operating the Pretreatment Program;

(b) monitoring, inspections and surveillance procedures;

(c) reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;

(d) permitting;

(e) other fees as the Town may deem necessary to carry out the requirements of the Pretreatment Program.

## SECTION 14-86. – WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE; WASTEWATER DISCHARGERS.

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the Town. When requested by the Director of Treatment Plants, a user must submit information on the nature and characteristics of its wastewater within [thirty (30)] days of the request. The Director of Treatment Plants is authorized to prepare a form for this purpose and may periodically require users to update this information.

## SECTION 14-87. – SAME; WASTEWATER PERMITS.

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the Director of Treatment Plants to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the Director of Treatment Plant's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the Director of Treatment Plants be required to obtain a wastewater discharge permit for non-significant industrial users.

(a) **Significant Industrial User Determination**
All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the Director of Treatment Plants a significant industrial user determination. If the Director of Treatment Plants determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.

(b) **Significant Industrial User Permit Application**

Users required to obtain a significant industrial user permit shall complete and file with the Town, an application in the form prescribed by the Director of Treatment Plants, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the Director of Treatment Plant's determination in **Section 11.87(a)** above. The application shall include at a minimum:

(A) name of industrial user;
(B) address of industrial user;
(C) standard industrial classification (SIC) code(s) or expected classification and industrial user category;
(D) wastewater flow;
(E) types and concentrations (or mass) of pollutants contained in the discharge;
(F) major products manufactured or services supplied;
(G) description of existing on-site pretreatment facilities and practices;
(H) locations of discharge points;
(I) raw materials used or stored at the site;
(J) flow diagram or sewer map for the industrial user;
(K) number of employees;
(L) operation and production schedules; and
(M) description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g);

(c) **Application Signatories and Certification**

All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the Control Authority and/or Municipality as defined in **Section 11.72 (a)(3)** and contain the following certification statement:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(d) **Application Review and Evaluation**

The Director of Treatment Plants will evaluate the data furnished by the user and may require additional information.

(1) The Director of Treatment Plants is authorized to accept applications for the Town and shall refer all applications to the POTW staff for review and evaluation.

(2) Within **30** days of receipt the Director of Treatment Plants shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(e) **Tentative Determination and Draft Permit**

(1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.

(2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:

(A) proposed discharge limitations for those pollutants proposed to be limited;

(B) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

(C) a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

(3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the general permit conditions of the Town into a significant industrial user permit.

(f) **Permit supporting documentation.** The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.

(1) An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.

(2) The basis, or rationale, for the pretreatment limitations, including the following:

(A) documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and

(B) documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).

(g) **Final Action on Significant Industrial User Permit Applications**

(1) The Director of Treatment Plants shall take final action on all applications not later than 90 days following receipt of a complete application.

(2) The Director of Treatment Plants is authorized to:

(A) issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and N.C.G.S. 143-215.1;

(B) issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;

(C) modify any permit upon not less than 60 days notice and pursuant to subsection (h) below this ordinance;

(D) revoke any permit pursuant to **Section 14.106** of this ordinance;

(E) suspend a permit pursuant to **Section 14.106** of this Ordinance;

(F) deny a permit application when in the opinion of the Director of Treatment Plants such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.

(h) Permit Modification

(1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(A) changes in the ownership of the discharge when no other change in the permit is indicated,

(B) a single modification of any compliance schedule not in excess of four months,

(C) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

(2) Within 9 months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required**,** the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National categorical pretreatment standard.

(3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.

(i) Permit Conditions

(1) The Director of Treatment Plants shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:

(A) a statement of duration (in no case more than five years);

(B) a statement of non-transferability;

(C) applicable effluent limits based on categorical standards or local limits or both;

(D) applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;

(E) requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in **Section 14.72**;

(F) requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in **Section 14.72**, if determined by the **Director of Treatment Plants** to be necessary for the User and,

(G) requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in **Section 14.72**. Also see **Sections 14.91 and 14.92;**

(H) a statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

(2) In addition, permits may contain, but are not limited to, the following:

(A) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.

(B) Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

(C) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(D) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

(E) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.

(F) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

(G) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(H) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).

(I) Compliance schedules for meeting pretreatment standards and requirements.

(J) Requirements for submission of periodic self-monitoring or special notification reports.

(K) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in **Section 14.100** and affording the Director of Treatment Plants, or his representatives, access thereto.

(L) Requirements for prior notification and approval by the Director of Treatment Plants of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.

(M) Requirements for the prior notification and approval by the Director of Treatment Plants of any change in the manufacturing and/or pretreatment process used by the permittee.

(N) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.

(O) Other conditions as deemed appropriate by the Director of Treatment Plants to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

(j) **Permit Duration**

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

(k) **Permit Transfer**

Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(l) **Permit Reissuance**

A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with **section 14.87** a minimum of 180 days prior to the expiration of the existing permit.

## *SECTION 14-88. – REPORTING REQUIREMENTS; BASELINE MONITORING REPORTS.*

(a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Director of Treatment Plants a report which contains the information listed in paragraph **(b)**, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Director of Treatment Plants a report which contains the information listed in paragraph **(b),** below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(1) Identifying Information. The name and address of the facility, including the name of the operator and owner.

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).

(5) Measurement of Pollutants.

(A) The categorical pretreatment standards applicable to each regulated process.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director of Treatment Plants, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in **Section 14.97** of this ordinance.

(C) Sampling must be performed in accordance with procedures set out in **Section 14.98** of this ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).

(6) Certification. A statement, reviewed by the user's current authorized representative as defined in **Section 14.72** and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in **Section 14.88** of this ordinance.

(8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with **Section 14.88** of this ordinance.

### SECTION 14-89. – SAME; COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by **Section 14.87(b) (7)** of this ordinance:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the Director of Treatment Plants no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the Director of Treatment Plants.

### SECTION 14-90. – SAME; REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD, DEADLINE.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director of Treatment Plants a report containing the information described in this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with this ordinance.

### SECTION 14-91. – SAME; PERIODIC COMPLIANCE REPORTS.

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

(a) All significant industrial users shall, at a frequency determined by the Director of Treatment Plants but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in **sections 14.97 and 14.98** of this ordinance. All periodic compliance reports must be signed and certified in accordance with this ordinance.

(b) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Director of Treatment Plants, using the procedures prescribed in **Sections 14.97 and 14.98** of this ordinance, the results of this monitoring shall be included in the report.

### SECTION 14-92. – SAME; REPORTS OF CHANGED CONDITIONS.

Each user must notify the Director of Treatment Plants of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least [thirty (30)] days before the change.

The permittee shall not begin the changes until receiving written approval from the Control Authority and/or Municipality. See Section 5.6(d) for other reporting requirements.

(a) The Director of Treatment Plants may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under **Section 14.87** of this ordinance.

(b) The Director of Treatment Plants may issue a wastewater discharge permit under **Section 14.87** of this ordinance or modify an existing wastewater discharge permit under **Section 14.87** of this ordinance in response to changed conditions or anticipated changed conditions.

(c) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 20 percent or greater, and the discharge of any previously unreported pollutants, increases or decreases to production; increases in discharge of previously reported pollutants; discharge of pollutants not previously reported to the Control Authority and/or Municipality; new or changed product lines; new or changed manufacturing processes and/or chemicals; or new or changed customers.

## SECTION 14-93. – SAME; REPORTS OF POTENTIAL PROBLEMS.

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in this ordinance, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of Treatment Plants of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the Director of Treatment Plants, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in this ordinance.

## SECTION 14-94. – SAME; REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director of Treatment Plants as the Director of Treatment Plants may require.

All users classified as Non-Significant Categorical Industrial Users shall provide appropriate reports to the Director of Treatment Plants as the Director of Treatment Plants may require. At a minimum, this shall include the Annual Certification of continuing to meet the Non-Significant Categorical Industrial User criteria as required under 40 CFR 403.12(q).

## SECTION 14-95. – SAME; NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.

(a) If sampling performed by a user indicates a violation, the user must notify the Director of Treatment Plants within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director of Treatment Plants within thirty (30) days after becoming aware of the violation. If allowed by the Director of Treatment Plants, the user is not required to resample:

(1) if the Director of Treatment Plants monitors at the user's facility at least once a month; or

(2) if the Director of Treatment Plants samples between the user's initial sampling and when the user receives the results of this sampling.

(b) If the Director of Treatment Plants has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the Director of Treatment Plants shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:

(1) the Director of Treatment Plants monitors at the user's facility at least once a month; or

(2) the Director of Treatment Plants samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or

(3) the Director of Treatment Plants requires the user to perform sampling and submit the results to the Director of Treatment Plants within the 30 day deadline of the POTW becoming aware of the violation.

## SECTION 14-96. – SAME; NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

The Town prohibits the discharge of any hazardous wastes without notification to and approval by the Director of Treatment Plants.

(a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days **before** the discharge commences. The user shall not begin the discharge until receiving written approval from the Town. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under **Section 14.92** of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of this ordinance.

(b) Dischargers are exempt from the requirements of paragraph **(a),** above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the

Director of Treatment Plants, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

### SECTION 14-97. – SAME; ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 146, unless otherwise specified in an applicable categorical pretreatment standard or unless otherwise performed in accordance with procedures approved by EPA or Town. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and Town. Analyses must be performed by a State certified lab for each parameter analyzed, if such certification exists for that parameter.

### SECTION 14-98. – SAME; GRAB AND COMPOSITE SAMPLE COLLECTION.

(a) All wastewater samples must be representative of the user' discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(b) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g) (5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the Director of Treatment Plants may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.

(c) Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director of Treatment Plants. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

### SECTION 14-99. – SAME; TIMING.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

### SECTION 14-100. – SAME; RECORD KEEPING.

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3)

years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town, or where the user has been specifically notified of a longer retention period by the Director of Treatment Plants.

### SECTION 14-101. – SAME; ELECTRONIC REPORTING.

The Director of Treatment Plants may develop procedures for receipt of electronic reports for any reporting requirements of this Ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under Section 8 of this Ordinance.

### SECTION 14-102. – COMPLIANCE MONITORING; MONITORING FACILITIES.

The Town requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the Town may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of the Town and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the Town.

### SECTION 14-103. – SAME; INSPECTION AND SAMPLING.

The **Town** will inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the **Town**, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The **Town**, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the **Town**, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the Town, approval authority’s or EPA's access to the user's premises shall be a violation of this ordinance. Unreasonable delays may constitute denial of access.

### SECTION 14-104. – SAME; SEARCH WARRANTS.

If the Town, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town, approval authority, or EPA ay seek issuance of a search warrant from the court having jurisdiction within the Town.

## SECTION 14-105. – CONFIDENTIAL INFORMATION.

(a) Information and data provided by an industrial user to the Director of Treatment Plants pursuant to this ordinance identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information which may be so submitted by an industrial user to the Director of Treatment Plants in connection with any required reports shall also be available to the public unless the industrial user or other interested person specifically identifies the information as confidential upon submission and is able to demonstrate to the satisfaction of the Director of Treatment Plants that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

(b) Information provided by an industrial user to the Director of Treatment Plants that is determined to be entitled to confidential treatment shall be made available upon written request to the Division of Water Resources or any state agency for uses related to the Pretreatment Program, the National Pollutant Discharge Elimination System (NPDES) Permit, collection system permit, stormwater permit, and/or Non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.

(c) Information and data received by the Division or other state agency under paragraph (b) above shall be subject to the processes set forth in G.S. 143-215.3C.

## SECTION 14-106. – ENFORCEMENT; ADMINISTRATIVE REMEDIES.

(a) **Notification of Violation**

Whenever the Director of Treatment Plants finds that any industrial user has violated or is violating this Ordinance, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the Director of Treatment Plants may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the Town by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) **Consent Orders**

The Director of Treatment Plants is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to **Section 14.106 (d)**, below.

(c) **Show Cause Hearing**

The Director of Treatment Plants may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the Director of Treatment Plants determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or

certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The Director of Treatment Plants shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under **Section 14.107** nor is any action or inaction taken by the Director of Treatment Plants under this section subject to an administrative appeal under **Section 14.111**.

(d) **Administrative Orders**

When the Director of Treatment Plants finds that an industrial user has violated or continues to violate this ordinance, permits or orders issued hereunder, or any other pretreatment requirement the Director of Treatment Plants may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

(1) Immediately comply with all requirements;

(2) Comply in accordance with a compliance time schedule set forth in the order;

(3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;

(4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(e) **Emergency Suspensions**

The Director of Treatment Plants may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the Director of Treatment Plants shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Director of Treatment Plants shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director of Treatment Plants prior to the date of the above-described hearing.

(f) **Termination of Permit or Permission to Discharge**

The Director of Treatment Plants may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

(1) Failure to accurately report the wastewater constituents and characteristics of his discharge;

(2) Failure to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,

(4) Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable State and Federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under **Section 11.106** of this ordinance why the proposed action should not be taken.

## SECTION 14-107. – SAME; CIVIL PENALTIES.

(a) Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty of up to twenty-five thousand dollars ($25,000) per day per violation.

(1) Penalties between $10,000 and $25,000 per day per violation may be assessed against a violator only if:

(A) For any class of violation, only if a civil penalty has been imposed against the violator with in the five years preceding the violation, or

(B) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the Director of Treatment Plants determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.

(b) In determining the amount of the civil penalty, the Director of Treatment Plants shall consider the following:

(1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;

(2) The duration and gravity of the violation;

(3) The effect on ground or surface water quantity or quality or on air quality;

(4) The cost of rectifying the damage;

(5) The amount of money saved by noncompliance;

(6) Whether the violation was committed willfully or intentionally;

(7) The prior record of the violator in complying or failing to comply with the pretreatment program;

(8) The costs of enforcement to the Town.

(c) Appeals of civil penalties assessed in accordance with this section shall be as provided in **Section 14.111.**

## SECTION 14-108. – OTHER AVAILABLE REMEDIES.

Remedies, in addition to those previously mentioned in this ordinance, are available to the Director of Treatment Plants who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

(a) Criminal Violations.

The District Attorney for the applicable Judicial District may, at the request of the Town, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or

knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. 143-215.6B(i)).]

(b) Injunctive Relief

Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the Director of Treatment Plants, through the City Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(c) Water Supply Severance

Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(d) Public Nuisances

Any violation of the prohibitions or effluent limitations of this ordinance or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director of Treatment Plants. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the Town governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

## SECTION 14-109. – REMEDIES NONEXCLUSIVE.

The remedies provided for in this ordinance are not exclusive. The Director of Treatment Plants may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the [Town's] enforcement response plan. However, the Director of Treatment Plants may take other action against any user when the circumstances warrant. Further, the Director of Treatment Plants is empowered to take more than one enforcement action against any noncompliant user.

## SECTION 14-110. – ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE.

At least annually, the Director of Treatment Plants shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b)(34), with applicable pretreatment standards and requirements, during the previous 12 months.

## SECTION 14-111. – ADJUDICATORY HEARINGS.

(a) Judicial Review. An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under **Section 14.107**, or one issued an administrative order under **Section 14.106** may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Robeson County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, along with a copy to the Town. Within 30 days after receipt of the copy of the petition of judicial review, the Council serving the Town shall transmit to the reviewing court the original or a certified copy of the official record of their decision.

## SECTION 14-112. – AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS; UPSET

(a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.

(b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the Director of Treatment Plants within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

(A) A description of the indirect discharge and cause of noncompliance;

(B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

## SECTION 14-113. – BYPASS.

(a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs **[(b)]** and **[(c)]** of this section.

(b)

(1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Director of Treatment Plants, at least ten (10) days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the Director of Treatment Plants of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director of Treatment Plants may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(c)

(1) Bypass is prohibited, and the Director of Treatment Plants may take an enforcement action against a user for a bypass, unless

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The user submitted notices as required under paragraph (b) of this section.

(2) The Director of Treatment Plants may approve an anticipated bypass, after considering its adverse effects, if the Director of Treatment Plants determines that it will meet the three conditions listed in paragraph **(c)(1)** of this section.

### *SECTION 14-114. – SEVERABILITY.*

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

### *SECTION 14-115. – CONFLICT.*

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

### *SECTION 14-116. – EFFECTIVE DATE.*

This ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law.

### *SECTIONS 14-117. – 14-120 – RESERVED.*

# CHAPTER 10. FATS, OILS AND GREASE

## SECTION 14-121. – PURPOSE.

This ordinance is intended to aid in the prevention of sanitary sewer blockages and obstructions caused by the introduction, discharge and contribution of fats, oils, greases, grease complexes, scum, sludge and other organic polar compounds into the Town's wastewater collection system or publicly-owned treatment works by commercial, industrial, institutional and all other non-residential activities.

## SECTION 14-122. – DEFINITIONS.

(1) "Town" shall mean the Town of Red Springs, North Carolina, and its utility service area.

(2) "Person" shall mean any actual person, corporation, partnership, unincorporated association, and any governmental entity or political subdivision and departments and agencies thereof.

(3) "Grease" "Fats" and "Dark Prints" shall mean all greases, grease complexes, fats, oils, scum, sludges and all other organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. Such substances are detectable and measurable using analytical procedures established in 40 C.F.R. 136. All are sometimes referred to herein as "Grease" or "greases".

(4) "Wastewater" shall mean any substance introduced, contributed to, or discharged into the Town's wastewater collection system or publicly-owned treatment works ("POTW").

(5) "Grease trap", "grease interceptor", or "sand trap" shall mean a device for separating and retaining waterborne greases and sand complexes before the wastewater which contains such grease exits the grease trap or interceptor into the Town's wastewater collection system or POTW. The grease trap or interceptor also collects settable solids generated by or incidental to commercial, industrial and food preparation activities.

(6) "Cooking establishment" shall mean any person primarily engaged in the activities of cooking, preparing, serving or otherwise making available for human consumption any form of foodstuff, and which uses one or more of the following cooking or preparation methods in connection with such activities: cooking or preparation by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, poaching, or any type of cooking or preparation that produces a hot non-potable product in or on a receptacle that requires washing, rinsing or other form of cleaning. Such establishments include, but are not limited to, restaurants, cafeterias, extended care facilities, school cafeterias (public and private), and daycare facilities where meals for more than six (6) children are prepared, served or otherwise made available for human consumption.

(7) "Non-cooking establishment" shall mean any person primarily engaged in the rendering or preparation of pre-cooked foodstuffs that do not require or involve any form of cooking. Such establishments include, but are not limited to, establishments that are primarily engaged in the rendering preparation of cold dairy and frozen foodstuffs.

(8) "User" shall mean any person primarily engaged in any commercial, industrial, institutional or other non-residential activity who introduces, contributes or discharges (or causes or permits the introduction, contribution or discharge of) wastewater into the Town's wastewater collection system or POTW, including but not limited to any person who introduces, contributes or discharges wastewater into the wastewater collection system or POTW through any mobile source.

(9) "Commercial establishment" and "industrial establishment" shall mean any user that has the potential to use, contribute to or otherwise impact the Town's wastewater collection system or POTW. Such establishments include, but are not limited to, maintenance facilities, repair facilities and equipment cleaning facilities.

(10) "Sand Traps" shall mean a design feature in the sanitary sewer line that takes out solids from car washes, garages, detail shops or any business that washes or cleans vehicles from which the water enters to sanitary sewer system.

## SECTION 14-123. – GREASE TRAP AND INTERCEPTOR INSTALLATION, MAINTENANCE, RECORD KEEPING AND REMOVAL.

(1) No later than one (1) year after adoption of this ordinance, all users shall install grease traps or interceptors designed to limit the introduction, contribution and discharge of greases into the Town's wastewater collection system or POTW. Grease traps and interceptors with appropriate sampling or inspection points shall be installed at the user's expense whenever any user operates a commercial, industrial, or institutional cooking establishment. Grease traps and interceptors must have a minimum capacity of one thousand (1,000) gallons or more as required to effect a grease concentration maximum of 200 mg/l.

(2) Alternative methods of compliance may be approved by the Town if the user demonstrates that compliance with this ordinance is impossible or impractical at the time of adoption of this ordinance as a result of limited space. However, any such proposed alternative method of compliance will be required to meet the performance criteria specified in Section 18-142(1) of this ordinance, and the user must adequately demonstrate to the satisfaction of the Town that the proposed alternative method will satisfy those performance criteria. In addition, any such alternative method must be cleaned at a more frequent interval than is required of grease traps and interceptors under Section 18-142(5) of this ordinance. Prior to approval of any such proposed alternative method of compliance, documentation of the proposed method's actual performance criteria must be submitted to the Town's Enforcement Official or Public Utilities Director for review and approval.

(3) Grease traps and interceptors may also be required in other facilities, as deemed necessary by the Town's designated Enforcement Official or Public Utilities Director.

(4) Upon the prior written approval of the Public Utilities Director, non-cooking establishments may be exempted from the requirements of this ordinance after an inspection of the subject premises and submission of adequate supporting documentation, as deemed necessary in the sole and absolute discretion of the Public Utilities Director. At a minimum, such supporting documentation shall include: blueprints of the subject premises, a full and detailed description of the operations and activities at the subject premises, and a full and detailed list of all potential sources of grease at the subject premises.

(5) Users shall empty and service grease traps and interceptors to comply with the performance criteria of this ordinance as often as necessary, but in any event no longer than every sixty (60) days. The Town may require a specific schedule if deemed necessary by the Public Utilities Director. Under-the-counter types of grease traps and interceptors shall be cleaned at least daily, and shall comply with the performance criteria in Section 18-142(1) of this ordinance. There shall be no reintroduction of wastewater back into the grease trap or interceptor unless and until said wastewater has been proven to contain 200 mg/l or less of grease. Under no circumstances shall the sludge or scum layer be reintroduced or discharged into the Town's wastewater collection system or POTW.

(6) Users shall supply (i) an adequate sampling point downstream of the grease trap or interceptor, prior to mixing with other sanitary flows, and (ii) an accessible entry into each chamber of the grease trap or interceptor. The minimum requirement for the sampling point shall be a four inch (4") vertical clean-out. The Town shall have the right to inspect at any time and without prior notice.

(7) Users shall retain detailed records on-site for a minimum of three (3) years reflecting all maintenance carried out pursuant to this ordinance. At a minimum, such records shall contain the following information: date of service, name of the employee involved, and a receipt reflecting all services rendered by the waste hauler providing the service.

(8) Users are required to keep the grease trap or interceptor free of inorganic solids such as grit, towels, gloves, cigarettes, eating utensils, etc., which could clog or settle in the trap or interceptor, thereby reducing the effective volume or capacity of the trap or interceptor.

(9) Users are required to ensure that all waste material removed from grease traps and interceptors is disposed of in a manner that complies with all federal, state and local statutes, rules, regulations, policies and ordinances.

(10) Except as provided herein, for a period of one (1) year following the adoption of this ordinance, no enforcement actions will be taken under this section for failure to achieve the performance criteria specified in this ordinance. If, during such period, (i) an obstruction of any of the Town's sanitary sewer main(s) occurs and causes a sewer overflow, spill, leak or other event with any environmental impact, and (ii) such overflow, spill, leak or other event may be attributed in part or in whole to a particular user, then the Town will seek enforcement action under the Sewer Use Ordinance, and/or the Pretreatment Enforcement Plan. For purposes of this section, an overflow, spill, leak or other event shall be deemed to have an environmental impact when (i) such overflow or other event involves an amount of wastewater equal to or in excess of one thousand (1,000) gallons, or (ii) any amount of wastewater reaches any body of surface water. Sec. 18-143 Enforcement. The Town shall enforce this ordinance pursuant to the provisions of Section 18-157 of the Town's Code of Ordinances and/or the Town's Pretreatment Enforcement Plan.

# TITLE 15. – PUBLIC WORKS: ELECTRICAL SERVICES

## CHAPTER 1. – GENERAL PROVISIONS

### SECTION 15-1. – AUTHORITY OF BOARD OF COMMISSIONERS.

All electric utilities, or portions thereof, owned, leased or operated by the town, whether inside or outside of the corporate limits, shall be under the full control of the Board of Commissioners, pursuant to authorization in Session Laws of 1953, chapter 300 and G.S. 160A-311 et seq. The duty of enacting and enforcing rules and regulations governing the management and control of town properties shall be vested in the Town Board of Commissioners, and the duty of enforcing such rules and regulations may be delegated.

**State Law reference—** Authority to operate public enterprises, G.S. 160A-312.

### SECTION 15-2. – ESTABLISHMENT OF OFFICE; APPOINTMENT AND REMOVAL.

The Board of Commissioners hereby establishes the office of Electric Utilities Director. The Electric Utilities Director shall be appointed by the Town Manager and may be removed by the Town Manager as provided by state law.

**State law reference—** Creation of offices by board, G.S. § 160A-146.

### SECTION 15-3. – POWERS AND DUTIES OF THE OFFICE.

The Electric Utilities Director shall be in charge of the electric utility system. He shall be responsible to the town manager for the proper maintenance, operation and management of such system. He shall perform such duties relative to such system as may be imposed upon him by this Code or any other ordinances of the town or as may be required of him by the town manager, under general regulations of the Board of Commissioners.

### SECTION 15-4. – CONNECTIONS TO SYSTEM ONLY MADE BY AUTHORIZED PERSONS.

No electrical connection to the town electrical system shall be made by any person other than the Electric Utilities Director or his representative.

### SECTION 15-5. – CONNECTIONS TO SYSTEM ONLY MADE BY AUTHORIZED PERSONS.

It shall be the duty of the persons making connections under the preceding section to return work orders received from the town Electric Utilities Director indicating the status of such meter readings at the time connections are made.

### SECTION 15-6. – VISITING UTILITY STATIONS.

No visitors shall be permitted to enter any electric utility facility unless accompanied by the Electric Utilities Director or his representative. Under no circumstances shall anyone be allowed to handle or in any way come in contact with any portion of the equipment contained therein.

## SECTION 15-7. – TAMPERING WITH EQUIPMENT.

(a) It shall be unlawful for any person to tamper with, remove or otherwise interfere with the electric wires, poles, meters or any other electric equipment, apparatus or materials belonging to the electric system of the town, with the exception of those licensed electrical contractors so designated to do so by the town, and then only in the event of necessary repairs or emergency service to the property of the electric consumers of the town, and with proper notification to the town by such licensed electrical contractor. It shall be unlawful for any person to remove or damage property of any kind belonging to the town.

(b) A reward of up to two hundred fifty dollars ($250.00) shall be offered to any person furnishing information leading to the arrest and conviction of any person violating this section.

(c) A fee in an amount as established from time to time shall be charged for the town's cost in investigating customers who energize their electric service without permission of the town. Service may be discontinued if this fee is not paid.

(d) For customers who tamper with the electric meters, fees in amount as established from time to time shall be charged, as itemized as follows, to cover the additional costs to the town. Service may be discontinued if these fees are not paid:

(1) A fee for verification of the accuracy of the meter after tampering has been established.

(2) A one-hundred-and-fifty-dollar-fee for investigation.

(3) The amount of estimated lost revenue.

(4) Meter repair charges, if the meter is damaged.

(e) Electric utility customers shall protect electric meters and related equipment on their premises from vandalism or being tampered with in any way, and shall promptly report to the town's electric department any such vandalism or tampering. If any such vandalism or tampering is not so reported, the same shall constitute prima facie evidence that such vandalism or tampering was by the customer.

## SECTION 15-8. – ELECTRIC METERS: LOCATION, CONTROL AND ACCESS.

(a) An electric meter shall be placed at such location on a building as the director of electric utilities or his representative may direct and shall at all times be under the exclusive management and control of the Electric Utilities Director or his representative.

(b) The director of electric utilities or his representative may enter and have safe access at all reasonable hours to premises for the purpose of ascertaining the location or condition of wires and meters or other fixtures attached to town lines.

(c) The director or his representative shall also, at all reasonable hours, have free access to all premises for the purpose of reading or testing electric meters or examining connections on which town power is maintained.

(d) Any debris, vegetation, an animal or a locked gate on a fence that may interfere or prevent access to town equipment, meter, etc. to perform these purposes shall be removed by the customer at the

request of the town within the time frame given by written notice or the town reserves the right to disconnect power to the premises until such debris, vegetation, an animal or a locked gate on a fence is removed to the satisfaction of the director or his representative. An initial 30-day notice, followed with a ten-day, notice for the customer to correct the problem will be given prior to issuing a ten-day notice for disconnection. Debris vegetation, an animal or a locked gate on a fence found during an emergency situation will be removed without notice or compensation to the resident.

(1) *Debris* is defined as any building material, discarded items, yard waste, etc. that has been placed near or around an electric meter that hinders access over the normal path to a meter or the ability of town workers to safely service, repair, inspect or read a meter.

(2) *Vegetation* is defined as any shrubs, trees, vines or flowers that are placed around a meter that hinder access over the normal path to a meter or the ability of town workers to safely service, repair, inspect or read a meter. Any shrubs or bushes planted near a meter shall not bear thorns or sharp protrusions. The Town reserves the right to prune, trim or remove such as necessary to allow access to a meter without any notice or compensation to the customer if not corrected within the time stated above. A meter should be completely unobstructed so that it is clearly visible.

(3) *Animal* is defined as any domestic dog, horse, goat or any other animal that can tied, chained or fenced and which is capable of inflicting injury to a human. Animals shall be located inside a building or tied, chained or fenced away form the meter so as not to hinder access over the normal path to a meter or the ability of town workers to safely service, repair, inspect or read a meter.

(4) A *locked gate on a fence* is defined as any lock on a wooden, brick, chain link, etc. fence that restricts access over the normal path to a meter or the ability of town workers to safely service, repair, inspect or read a meter.

### SECTION 15-9. – REPAIRS.

All repairs or the replacement of electric service meters made necessary by the carelessness, neglect or interference of customers shall be made by the town at the expense of the customer offending, and the cost thereof shall be collected as electric light bills are collected.

### SECTION 15-10. – CONNECTIONS AND METERS REMAIN PROPERTY OF TOWN.

All electric meters and other equipment furnished and used by the town in installing any electric connection shall be and remain the property of the town.

### SECTION 15-11. – MAINTENANCE OF METERS.

All electric meters shall be kept in good repair and working order by and at the expense of the town.

### SECTION 15-12. – RIGHT OF TOWN TO INTERRUPT SERVICE.

The town manager or Electric Utilities Director shall have the right and power at any time, when such action shall be necessary, to interrupt electrical service: 1) for failure to pay, 2) to prevent damage to any part of the town's electrical system, 3) to insure the safety of the public or emergency personnel, or 4) to insure the safety of electric utilities

workers. The town shall not be liable for damages to any person for such interruption nor shall any reduction be made from the rates established in this article on account of such interruption.

**State law reference—** Load management of electric power, G.S. § 160A-323.

### SECTION 15-13. –REMOVAL OF WIRES, ETC., DURING A FIRE.

During a fire, the Electric Utilities Director or his authorized agent shall have the right and power to cause removal of any wire and the turning off of all electricity which interferes with the work of the fire department, or such as are liable to endanger life or property.

### SECTION 15-14. –SAME- LIABILITY.

The town shall not be liable for damage to any person for removal of wires or the interruption of electrical service under the preceding section.

### SECTION 15-15. –LIABILITY OF TOWN IN GENERAL.

The town shall not be liable for damages resulting from the use of electricity or the presence of the town's appliances on the consumer's premises.

### SECTION 15-16. –SERVICE POLICIES.

Policies of providing all electric service shall be adopted by the Town Board of Commissioners and shall be made a part of the minutes in which the action was taken. Certified copies of the official service policies shall be on file with the Town Clerk and the business office manager, and copies shall be available for the customers of the electric system. Specific individual variation from adopted service policies may be made only by the Town Manager.

### SECTION 15-17. –CONSUMPTION WITHOUT PROPER METERING; UNLAWFUL ACTS.

(a) It shall be unlawful for any person to extend electric wires or electric service of the town in or outside of any structure or dwelling by attaching thereto additional facility, appliance or equipment.

(b) It shall be unlawful for any person to connect or arrange any electric wire in such a manner as to supply electricity to any electrical facility, appliance or equipment where such electricity is used or can be used without passing through the meter provided or to be provided for registering the quantity of electricity consumed.

(c) It shall be unlawful for any person knowingly to permit the existence or continuance upon any premises owned, occupied or controlled by him of any connection, arrangement or service of wires by means of which electricity is used or can be used without passing through the meter provided for measuring the amount of electricity consumed.

(d) It shall be unlawful for any person to break the seal on any electric meter or to do any other act to obstruct, alter, injure or prevent the action of a meter used to measure the quantity of electricity consumed while such meter is in use for such purpose.

### SECTION 15-18. –INSPECTIONS- CONSUMPTION WITHOUT PROPER METERING

(a) The Electrical Inspector of the town is hereby specifically authorized to inspect any premises where it is known or suspected that electricity is being consumed without being properly metered.

(b) Such inspection may be made during any reasonable hours.

(c) It shall be unlawful for any person to refuse to permit such examination or to obstruct the Electrical Inspector in the performance of his duty.

(d) In any case in which the Electrical Inspector shall discover that the wires on any premises are so arranged that electricity is or can be used without being properly metered, the supply of electricity shall be cut off, and no additional electricity shall be supplied to the premises until an outside meter has been installed at the expense of the owner of the premises.

### SECTION 15-19. –EXTENSIONS TO ELECTRICAL SYSTEM.

Extensions for the purpose of furnishing electric utility service shall be subject to the discretion of the Town Manager in accordance with the town's established policy covering extension of such service.

### SECTION 15-20. – ATTACHMENTS TO ELECTRIC FACILITES.

It shall be unlawful for any person to attach nonutility articles or items to town-owned or town-leased utility structures, poles, or facilities without prior approval of the Town Manager.

### SECTION 15-21. – UNDERGROUND SERVICE.

Any electric utility customer of the town who desires to connect an underground service to the existing overhead distribution system of the town shall have first, before connecting to the existing distribution system of the town, caused to be installed a weatherproof fuse disconnecting switch, which switch shall be installed directly below the meter that will connect to the distribution overhead system. The fuse rating of such disconnecting switch shall be determined by the electrical utilities director, based upon the size of the entrance and the uses to be made through such underground service.

### SECTIONS 15-22. – 15.25. – RESERVED.

## CHAPTER 2. – RATES AND CHARGES

### SECTION 15-26. – APPLICATION.

All customers seeking electric service from the Town after the date of adoption of this ordinance shall complete an application for service. Such application shall be reviewed and amended, as needed, to stay current with existing laws and policies of the Town and its electrical service department.

## SECTION 15-27. – SERVICE FEES – NEW CUSTOMERS.

(a) New customers to the electric system will be charged a service fee in an amount as established from time to time and any deposit which is required of all customers.

(b) New residential customer structures connected to the electric system will be charged a service fee in an amount as established from time to time for the purpose of offsetting the incurred metering costs of new structures.

(c) New nonresidential customer structures connected to the electric system will be charged a service fee in an amount as established from time to time for the purpose of offsetting the incurred metering costs of new structures.

## SECTION 15-28. – SERVICE FEES – TRANSFERS.

(a) Customers moving from one location to another within the electric system shall be charged a service fee in an amount as established from time to time and any deposit which is required of all customers.

(b) Customers requesting a change in existing service which requires electric utility personnel to disconnect the electrical service shall be charged a service fee in an amount as established from time to time.

## SECTION 15-29. – DEPOSITS.

(a) *Residential*.

(1) Any person or entity applying for electric services to be furnished to residential premises shall make a deposit in accordance with a schedule as adopted from time to time and maintained in the Town of Washington Fee Manual or, at the town's discretion, in an amount equal to two-twelfths (2/12;) of the average annual charges based on utility billing history at the specific location of the service request. Such deposit requirements may be satisfied as follows:

a. A cash deposit or a billed deposit over a period not to exceed three (3) months, which deposit shall be refunded by a credit to the customer's account at the end of the first six (6) month period during which the customer has paid at least six (6) bills on time and service has not been disconnected for failure to pay and has not had any returned checks or drafts on the account;

b. Proof that the deposit refund requirements of subsection (a)(1)a. of this section have been met at another location within the town's system for which the customer is responsible; or

c. A personal, written guarantee of payment by a current town customer who has satisfied the deposit refund requirements of subsection (a)(1)a. of this section.

(2) *Increases*. A deposit may be increased or a new deposit may be required, at the town's discretion, after the customer fails to pay a bill in a timely manner three (3) times during any

three (3) year period, has service terminated for nonpayment, or has a check or draft returned because of insufficient funds or a closed account. The amount of deposit resulting from any such increase or from the requirement of a new deposit shall be in accordance with the provisions in this section (a).

(b) *Commercial*.

(1) Any person or entity applying for electric services to be furnished to commercial premises may be required to make a deposit in an amount, if any, to be determined based on that person or entity's credit information along with the history of usage at the service address. Generally, a deposit shall be in an amount equal to two-twelfths (2/12;) of the estimated annual charges at the service address. The initial deposit shall be based upon the town's estimate of the customer's anticipated, annual usage. After six (6) billing periods following the initial deposit, the customer's actual usage will be reviewed, and the deposit adjusted, to reflect such actual usage. If the amount of the deposit is decreased, the difference shall be credited to the customer's account. If the amount of the deposit is increased, the difference shall be billed to the customer. At any time after the first six (6) billing periods, the town reserves the right to adjust the then current deposit based upon the customer's actual usage during the preceding six (6) billing periods. Such deposit requirements may be satisfied as follows:

a. A cash deposit or billed deposit, which deposit shall be refunded by a credit to the customer's account at the end of the first twenty-six (26) month period during which the customer has paid at least twenty-four (24) bills on time and service has not been disconnected for failure to pay and has not had any returned checks or drafts on the account;

b. Proof that the deposit refund requirements of subsection (b)(1)a. of this section have been met at another location within the town's system for which the customer is responsible; or

c. A surety bond or letter of credit that is issued by an entity satisfactory to the town, is in an amount equal to the amount of the required deposit, and is irrevocable for a period of at least twenty-four (24) months from the date of the application.

(2) If the customer chooses to use its credit history at another location(s) to satisfy a deposit requirement, the customer shall designate such location(s). If service is disconnected at any such location for nonpayment, the town may disconnect service to any or all such locations where the customer is served until the customer pays its account(s) in full and otherwise meets the deposit requirements of this section.

(3) *Increases*. A deposit may be increased or a new deposit may be required, at the town's discretion, after the customer fails to pay a bill in a timely manner three (3) times during any three (3) year period, has service terminated for nonpayment, or has a check or draft returned because of insufficient funds or a closed account. The amount of deposit resulting from any such increase or from the requirement of a new deposit shall be established, and be subject to

later adjustment, in the same manner as an initial deposit is established, and subject to later adjustment, in accordance with this section (b).

(d) *Contractors*. Building contractors requesting temporary electric services will not be required to provide a deposit. However, each building contractor or his representative will be required to make a written request that includes, among possibly other things, the date, the location of the service and the name in which the service is requested.

(e) *Credit, refund, transfer.* When service is disconnected at the customer's request, any deposit on the account shall be credited to the customer's final bill. If there is any balance remaining in a deposit after such a credit is administered, the town will hold the final bill and mail it, along with a town check for such balance, to the customer at the address given by customer. If the disconnected customer does not provide the town with a valid forwarding address, any such balance will be held for thirty (30) days at Town Hall before being placed into an inactive status file. Deposit returns only apply to customers who move off the town's system entirely and not to those customers who transfer service from one (1) location to another location within the town's system; in which case, the deposit shall be transferred with the service.

(e) *Termination of service.* Customers may terminate electric services in person or by phone.

## SECTION 15-30. – RATE SCHEDULE.

(a) A schedule of rates for the sale of electricity to all customers shall be adopted by the Town Board of Commissioners and made a part of the minutes of the meeting in which the action was taken. Certified copies of the electric rate schedule shall be on file with the Town Clerk and the Electric Director, and copies shall be available for the customers of the electric system.

(b) The electric rate schedule shall be reviewed and adjusted by the Town Board of Commissioners, as needed, or upon recommendation of the Town Manager.

## SECTION 15-31. – BILLING; PAYMENT; PENALTIES.

(a) All electric meters shall be read on a regular schedule established by the Electric Utility Director and bills shall be mailed on a cycle basis.

(b) Every bill shall be due when mailed to the customer at the last address provided by the customer. A bill shall reflect a due date of fifteen (15) days from the billing date shown on the bill. The same notice will serve as a notice of possible disconnect if payment is not received within thirty-two (32) days of the billing date.

(c) A late payment penalty in the amount of five (5) percent per month shall be imposed upon any outstanding unpaid balance twenty-five (25) days after the billing date shown on the bill. The late payment penalty will be reflected on the bill rendered the following month.

(d) An automated telephone reminder system will attempt to contact all delinquent accounts prior to disconnection as a courtesy if the customer has provided a phone number.

(e) If payment has not been received within thirty-two (32) days from the original billing date, services will be disconnected on the thirty-third (33rd) day. After payments in the night deposit are posted and the cutoff person has left the office for the purpose of disconnecting a delinquent customer, a service fee, in an amount as established from time to time, will be charged on that date, whether services are disconnected or not.

(f) A customer whose services are disconnected for such delinquency may have services restored during regular working hours by the payment of the bill in full plus the service fee. If a customer requests that services is reconnected after regular working hours, their service fee shall be as established from time to time. Payment must be received by 11:00 a.m., the following day or services will be disconnected.

(g) The customer shall pay all billed utility charges before transferring service from one location to another. The final bill shall be mailed to the customer's new billing address. If a customer fails to pay his utility bills for any account where he is listed as the customer and such account becomes delinquent, the town may transfer the amount owed to any other account where the customer is a primary recipient of utilities and cut off utilities to such account for nonpayment. The town may also refuse to transfer an account to a new customer's name or connect services to a new account where the delinquent customer will be a primary recipient of utilities. A customer is a primary recipient of utilities wherever listed as a customer, resides as a head of household, resides as a contributor to the household or conducts a trade or business. The town's determination that a customer is a primary recipient of utilities shall be effective until the customer proves otherwise.

(h) Any customer who has a check or draft returned from any financial institution because of insufficient funds or a closed account shall be charged a service charge fee in accordance with G.S. 25-3-506.

(i) Customers requesting alternate payment due dates must make such request of the town and utilize the town's bank draft service. The customer may choose one of the following periods of the month for their bill to be drafted:

(1) Between the 7th and 16th of the month.

(2) Between the 14th and 24th of the month.

(3) Between the 22nd and 31st of the month.

(4) Between the 28th and 9th of the month.

### SECTION 15-32. – TOWN HELD HARMLESS.

It is expressly agreed between the town and users and consumers of electric utilities that no claim for damages shall be made against the town due to any wire connection or any other equipment malfunctioning or for the accidental failure to supply electric service.

### SECTION 15-33. – METER TESTING; PROTESTING BILLS.

If an electric customer has an excessive bill and feels that it is caused by a faulty meter, the customer may, by making a deposit, in an amount as established from time to time with the town, request that the meter be removed and checked. If the meter is found to be in error, the deposit will be refunded and the bill adjusted for three (3) months. The adjustment will be based on the percentage of error in the meter.

### SECTION 15-34. – ADJUSTMENT OF BILL.

(a) If the town determines that it has overcharged or undercharged a customer on account of its error, the town shall refund or recover the difference, subject to the following:

(1) The adjustment period shall be limited to the lesser of the actual period during which the error occurred or twelve (12) months;

(2) The amount of adjustment shall be determined by the electric utility Director based upon such evidence as deemed appropriate; and,

(3) Any overcharge may be either refunded or credited to the customer and any undercharge shall be billed to the customer.

(b) If the town determines that it has undercharged a customer on account of any unlawful or materially misleading act of such customer, the undercharge shall be determined and collected as set out in subsection (a) of this section, except the adjustment period shall be the actual period during which the error occurred (up to thirty-six (36) months) or twelve (12) months, if the adjustment period cannot be determined. The town shall, in addition to collecting such undercharge, have the right to take such other action against such customer as is permitted by law.

### SECTIONS 15-35. – 15.40. – RESERVED.

## CHAPTER 3. – POLES AND WIRES

### SECTION 15-41. – PERMIT REQUIRED.

No poles for electric, telephone, telegraph or other purposes shall be placed on any street without a permit therefor being obtained from the town manager upon the approval of the Electric Utilities Director.

**State Law reference—** Acquisition of right-of-way for poles, etc., G.S. § 62-182; regulation of poles, G.S. § 136-18(10).

### SECTION 15-42. – SINGLE LINES OF POLES.

No permit shall be issued for the erection of poles on a street where there is already a line of poles for the purpose of supporting electric, telephone or communication wires on such street.

### SECTION 15-43. – REMOVAL OF DEAD WIRES.

It shall be unlawful for any electric telephone or communication company to permit any of its disconnected, dead or unused wires to hang or remain on any pole, structure or house where the same have formerly been connected and in use.

### SECTION 15-44. – CARE AND INSPECTION OF POLES AND WIRES.

It shall be the duty of the owners of all poles supporting electric, telephone or communication wires in the town to keep such poles in a safe condition by performing routine inspections.

### SECTION 15-45. – AGREEMENT TO JINT USE OF POLES.

Whenever any telephone, electric or communication company desires to place wires along any street upon which it does not have a line of poles, and there are existing poles along such street owned by another company, then such company shall obtain a Joint Use agreement from the owner of the poles prior to attaching wires upon the poles.

### SECTION 15-46. – ARBITRATION.

If an agreement cannot be reached between the company owning the line of poles on any street and another company desiring to use such poles, then the companies may submit the question of compensation and other pertinent matters in controversy to three disinterested persons for arbitration, or they may submit the matter to the town board for determination.

### SECTION 15-47. – SAME; APPLICABILITY.

**Sections 14-45 and 14-46** shall apply to poles owned by the town as well as to companies operating under franchise from the town.

### SECTIONS 15-48. – 15.55. – RESERVED.

## CHAPTER 4. – JOINT MUNICIPAL EASTERN POWER AGENCY/ELECTRICITIES

### SECTION 15-56. – GENERAL.

The Board of Commissioners hereby finds that participation in the proposed joint municipal assistance agency will result in economies, efficiencies and other benefits with respect to the construction, ownership, maintenance, expansion and operation of the municipality's electric system and that participation in such agency by the municipality as a member is desirable.

### SECTION 15-57. – MEMBERSHIP.

A commissioner and an alternate commissioner from the municipality shall be appointed to the joint municipal assistance agency, such appointees to serve at the pleasure of the governing board and until their successors are appointed by the governing body.

### SECTION 15-58. – TRANSFER OF INTEREST.

The municipality does hereby authorize the transfer to the newly formed joint municipal assistance agency of its interest in such of the assets of ElectriCities of North Carolina, a voluntary association, as may be determined by the board of directors of ElectriCities of North Carolina.

### SECTIONS 15-59. – 15-60. – RESERVED.

## CHAPTER 5. – LOAD MANAGEMENT

### SECTION 15-61. – DEFINITIONS.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them in this section:

*Device:* A switch which will temporarily curtail or cut off certain types of appliances or equipment for short periods of time.

*Load management:* The utilization of devices to temporarily curtail or cut off certain appliances or equipment for short periods of time whenever an unusual peak demand threatens to overload the system or economies would result.

*Participants:* Eligible electric customers of the town who have load management devices installed, maintained, operated, and placed into service by the town.

### SECTION 15-62. – POWERS OF ELECTRIC UTILITIES DIRECTOR- LOAD MANAGEMENT.

The Electric Utilities Director or someone under his control shall have the right and power to temporarily curtail or cut off certain types of appliances or equipment of participants for short periods of time whenever an unusual peak demand threatens to overload the electric system or economies would result by putting into service the load management devices.

### SECTION 15-63. – CREDIT FOR PARTICIPANTS.

Participants in the load management program shall receive a credit on their monthly bill based upon the appliances equipped with the load management device. If a residence is equipped with the device on all the air conditioners or heat pumps serving the residence, then the per month credit shall be as written in the adopted annual budget ordinance for the months of June, July, August, and September. If the residence is equipped with the device on all the hot water heaters serving the residence, then the per month credit shall be as written in the adopted annual budget ordinance.

### SECTION 15-64. – ELIGIBILITY.

A residential electrical utility customer of the town shall be eligible to participate in the load management program of the town if the residence is a single-family dwelling having either a hot water heater with a minimum of 30 gallons with at least a 4,500 Watt element and not being an instantaneous hot water system, a central air conditioning unit or a heat pump.

### SECTION 15-65. – APPLICATION FOR PARTICIPATION.

Application for participation in the load management program shall be made on such form as supplied by the town treasurer. Every person applying to participate shall agree that he will not remove or tamper with any of the load management devices on his premises, except by a duly authorized agent or representative of the town.

### SECTION 15-66. – DEVICE INSTALLATION.

The Electric Utilities Director or someone under his direction shall install the load management devices upon the appliances of an eligible applicant. No fee shall be charged for the installation of the device unless the participant has previously had load management devices which have either been tampered with or disconnected, in which case the actual cost of installation shall be the fee.

### SECTION 15-67. – CONTROL OF DEVICES.

The load management device shall at all times be under the exclusive management and control of the Electric Utilities Director or someone under his direction.

### SECTION 15-68. – REPAIR OF DEVICES.

No repair or removal of load management devices shall be made by any other person than the Electric Utilities Director or someone under his direction. All repairs or the replacement of load management devices made necessary by the carelessness, neglect or interference of participants shall be made by the town at the expense of the participant offending, and the cost thereof shall be collected as electric light bills are collected.

### SECTION 15-69. – LIABILITY OF TOWN.

The town shall not be liable for damages resulting from the use of load management devices or the presence of the town's devices on the participant's premises.

### SECTIONS 15-70. – 15-80. – RESERVED.

## CHAPTER 6. – RENEWABLE ENERGY

### SECTION 15.81. – BILATERAL METERING FOR RENEWABLE ENERGY RIDER.

(a) *Availability.* This rider is available in conjunction with any of the town's electric schedules applicable to customers who operate an approved renewable energy generating system located and used at the customer's primary residence or nonresidential facility, where part or all of the electrical requirements of the customer can be supplied from the customer's generating system.

(b) Rated capacity of the generating system shall not exceed the lesser of the customer's estimated maximum monthly kilowatt demand or 20 kW for residential systems or 100 kW for nonresidential systems. The generating system that is connected in parallel operation with service from the town and located on the customer's premises must be manufactured, installed, and operated in accordance with governmental and industry standards and in accordance with all requirements of the local code official and must fully conform with the town's applicable renewable energy generation application and attachments.

(c) This rider is available on a case-by-case basis, except that the aggregate capacity of the customer generator shall not exceed five percent of the town's retail peak load for the prior calendar year. If a customer's proposed installation results in exceeding the limit, the customer will be notified that service under this rider will not be allowed. In no event will energy delivered to the town be used to offset purchases in a different period or a different season.

(d) *Type of service.* This rider is applicable to alternating current 60 hertz, single phase 2 or 3 wires, or three phase 3 or 4 wires, at town's standard voltages.

(e) *Additional meter charge.* The customer shall pay an additional meter charge of $3.00 per month for meter reading and account servicing.

(f) *Monthly credit.* Energy measured as kilowatt-hours at the renewable energy generator meter shall be credited at the NCEMPA energy wholesale power rate. Sales tax will not be applied to purchased electricity.

(g) Customers with qualified systems are encouraged to also apply for NCGP credits through the NC Green Power Program (http://www.ncgreenpower.org/).

(h) *Power cost adjustment.* A wholesale power cost adjustment will apply to all service supplied under this schedule as necessary to reflect wholesale power increases by the NCEMPA.

(i) *Special conditions.*

(1) Customer must fill out and submit page one of the application for an approved renewable energy generating system and pay a $100.00 non-refundable processing fee. Upon receipt, page two of the application "Certificate of Completion for Renewable Energy Generating System" form will be completed by the town prior to the customer receiving service under this rider. Agreement shall include the renewable energy generator interconnection standards for systems up to 20 kilowatts capacity for residential systems and 100 kilowatts capacity for nonresidential systems that describes the conditions related to interconnection with the town's electrical system.

(2) Customer's service installation and transaction shall be a bilateral arrangement with two standard residential meters, one of which will measure all energy provided by the town for energy consumed by the customer, and the other meter to measure the output of the customer's generator.

(3) In the event town determines that it is necessary to install a dedicated transformer or other equipment to protect the safety and adequacy of electric service provided to other customers, customer shall pay a monthly facilities charge of two percent of the installed cost of said additional facilities. The minimum monthly facilities charge shall not be less than $25.00.

(4) Customer grants town the right to install, operate, and monitor special equipment to measure customer's load, generating system output, or any part thereof, and to obtain any other data necessary to determine the operating characteristics and effects of the installation. Customer

also grants town the right to utilize customer's telephone line to transmit data from town's meter and special equipment.

(5) The town reserves the right to test the customer's equipment for compliance with the applicable interconnection standards. Should the town determine that the equipment is in violation of the interconnection standards, the town shall disconnect the equipment and it shall remain disconnected until the equipment is repaired to the satisfaction of the authority responsible for inspection of the installation.

(j) *Contract period.* Contract period for service under this rider shall be one year and thereafter shall be renewed for successive one-year periods. After the initial period, customer may terminate service under this rider by giving at least 60 days' previous notice of such termination in writing to the town. The town may terminate service under this rider at any time upon written notice to customer. In the event that customer violates any of the terms or conditions of this rider, or operates the generating system in a manner which is detrimental to the town or its customers, service under this rider may be terminated immediately.

***SECTIONS 15.82. – 15.85. – RESERVED.***

# TITLE 16. – PUBLIC WORKS: SOLID WASTE AND RECYCLING

## CHAPTER 1. – GENERAL PROVISIONS.

### SECTION 16-1. – DEFINITIONS.

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

***GARBAGE.*** Organic waste matter, both animal and vegetable, from houses, kitchens, restaurants, hotels, hospitals, and other buildings and premises, exclusive of moisture and liquids that can be drained in a sewer, and exclusive of excrement.

***REFUSE.*** All garbage, rubbish, trash, debris, and waste matter, exclusive of moisture and liquids.

***TRASH.*** All refuse exclusive of garbage and excrement.

('70 Code, § 11-1)

### SECTION 16-2. – ACCUMULATION OF REFUSE PROHIBITED; DISPOSAL.

Refuse which originates upon any premises within the town shall not be suffered by the owner or occupant of the premises to accumulate in such manner or in such quantity as to constitute a fire hazard or a danger to health, or so as to become unsightly or otherwise give offense to persons in the neighborhood. Garbage and trash shall be disposed of regularly, as provided in this chapter. Refuse other than garbage and trash shall be disposed of by the owner or occupant promptly as it originates, in a sanitary and lawful manner.

('70 Code, § 11-2)

### SECTION 16-3. – DISPOSAL OF CERTAIN TRASH PROHIBITED.

No person shall deposit or dispose of any garbage, trash, or refuse upon any street, sidewalk, other public place, or vacant lot, or upon private premises owned or occupied by another, except that garbage and trash may be set out in receptacles for collection by the town as provided in this chapter. No person shall deposit or dispose of any garbage, trash, or refuse in any pond, lake, spring, well, or watercourse or in any gutter or drain within the town.

('70 Code, § 11-3)

### SECTION 16-4. – LITTER.

(A) For the purpose of this section, ***LITTER*** shall mean paper, cartons, bottles, bottle caps, cans, fruit peelings and pits, food, glass, scraps or fragments of any kind, and other things which have come to be regarded by the public as litter.

(B) It shall be unlawful for any person to dispose of, or suffer to be disposed of, litter of any kind at any place within the town except in receptacles provided for such purpose.

(C) Litter originating on any premises shall be disposed of by the owner or occupant of the premises.

(D) Litter shall not be deposited or permitted to remain upon any place where it would be subject to scattering by children, animals, the elements of nature, or other means.

('70 Code, § 11-4)

### SECTION 16-5. – REMOVING BUILDING DEBRIS; COLLECTION OF REFUSE FROM VACANT LOTS.

Building contractors, excavators, and other persons who in the course of their respective businesses cause debris or refuse of any kind to accumulate at any place within the town shall remove and dispose of such debris or refuse periodically before it becomes a hazard to the public health, safety, or welfare, and at the completion of each project shall remove all such debris and refuse and dispose thereof in a sanitary and lawful manner; provided, that when debris or refuse accumulates on any vacant lot and is not subject to removal by any contractor or other person as above provided, the town may collect and dispose of such debris and refuse and the costs of such collection and disposal shall become a charge against the owner of such vacant lot and shall be collectable in the same manner as taxes.

('70 Code, § 11-5)

### SECTION 16-6. – FALLEN TREES, STUMPS, AND DEBRIS.

Fallen trees, stumps, and debris which are on a public right-of-way shall be collected and disposed of by the town. Fallen trees, stumps, and debris not on a public right-of-way shall be removed promptly and disposed of in a sanitary and lawful manner by the owners or occupants of the properties upon which they are situated.

('70 Code, § 11-6) (Ord. passed 11-2-54)

### SECTION 16-7. – DISPOSAL OF CARCASSES.

(A) Property owners shall be responsible for the prompt, sanitary, and lawful disposal of animal and fowl carcasses found upon their property, and carcasses which remain on private property for eight hours after notice to the property owner or occupant to so dispose of any such carcass may be removed by the town at the expense of the property owner, such expense to be collected in the same manner as property taxes. Any notice pursuant to this section which cannot be served personally may be served by posting a copy thereof in a conspicuous place on the property whereon the carcass is found.

(B) Animal and fowl carcasses found upon the streets or other public places shall be taken up by the office or department of the town designated by the Town Manager and shall be disposed of in a sanitary and lawful manner.

('70 Code, § 3-6) (Ord. passed 1912; Am. Ord. 6, passed - - )

### SECTION 16-8. – 16-15. – RESERVED.

## CHAPTER 2. – COLLECTION SERVICE.

### SECTION 16-16. – COLLECTION; NOTICE OF CHANGE IN SCHEDULING.

Garbage and trash set out for collection as provided in this chapter shall be collected by the Public Works Department at such times as may be provided by the Director of Public Works, who shall maintain in his office at all times a current schedule of days and routes of collection; and upon making any change in such schedule he shall give notice thereof to the news media serving the town.

('70 Code, § 11-7)

### SECTION 16-17. – RECEPTACLES FOR GARBAGE AND TRASH REQUIRED.

All householders shall provide receptacles for all garbage and trash for removal by the town. The following rules and regulations shall be observed:

(a) Receptacles shall be made substantially of metal or plastic and provided with tight-fitting covers and strong handles. The covers shall be kept on the receptacles at all times, except when being filled or emptied.
(b) Each receptacle shall have not more than 30-gallons capacity. If one receptacle is not sufficient to hold the quantity of garbage or trash accumulated between collections, a sufficient number of similar receptacles shall be provided.
(c) Business establishments may place trash in plastic containers of substantial construction, with tight-fitting covers and strong handles. The covers shall be kept on the containers at all times, except when being filled or emptied.

('70 Code, § 11-8)

### SECTION 16-18. – BUSINESS AND COMMERCIAL ESTABLISHMENTS.

In instances where commercial receptacles are used, the owner or user thereof shall place such commercial receptacle in a suitable location, readily accessible to the collection vehicle. Commercial establishments in the Town' business districts and shopping centers shall use commercial receptacles with a capacity of not more than eight (8) cubic yards nor less than four (4) cubic yards. If the director of public works determines that it is physically impractical to locate a commercial receptacle on the premises, he may permit garbage roll-out containers.

### SECTION 16-19. – GARBAGE TO BE DRAINED OF MOISTURE AND LIQUID PRIOR TO COLLECTION.

Garbage shall be drained of liquid and moisture before being placed in a receptacle for collection by the town.

('70 Code, § 11-10)

### SECTION 16-20. – CONDITIONS UNDER WHICH GARBAGE/REFUSE MAY BE REJECTED.

(a) No collector shall be required to collect garbage or trash from a defective or unsubstantial container; collect garbage having moisture or liquid; collect garbage from a container not made of metal or plastic; collect garbage and trash which is set out in the same container; collect any refuse which is not authorized by proper authority of the town to be collected by the town; nor to collect any garbage or trash not set out for collection at a location or in a manner required by this chapter or by proper authority of the town as authorized by this chapter.
(b) Collectors who decline to remove any refuse under the provisions of this section shall notify the person who set it out for collection by attaching thereto a notice stating the reason for rejection.

('70 Code, § 11-11)

### SECTION 16-21. – TAMPERING WITH RECEPTACLES SET OUT FOR COLLECTION.

No person other than its owner or an authorized town employee or contractor shall remove the cover of any garbage or trash receptacle which has been set out for collection, or move or tamper with any such receptacle or spill the contents thereof.

('70 Code, § 11-12)

### SECTION 16-22. – TREE LIMBS, CUTTINGS, AND SHRUBBERY.

Tree limbs, cuttings, and shrubbery of not more than one truck load may be collected by the town, upon request, when vehicles and personnel are available, at such charge as may be specified by the Board of Commissioners, or as specified by the Director of Public Works if at any time a schedule of such charges has not been adopted by the Board of Commissioners. Tree limbs and the like shall be cut into lengths that can be handled easily by two men, and other matter shall be tied in bundles or placed in secure receptacles for easy placement on the truck and so as to prevent scattering thereof. All such matter to be collected shall be placed at the curb, readily accessible to the collection truck, but nothing shall be placed in a gutter or other drain.

('70 Code, § 11-13)

### SECTION 16-23. – LEAVES.

Leaves shall be bundled, packaged or boxed into one-man loads and placed adjacent to and behind the curb or in front of the ditch, except during the portion of each year when special leaf collection equipment is in operation. During that portion of each year, leaves may be piled loosely adjacent to and behind the curb or in front of the ditch for collection by special equipment. However, such loose piles of leaves will not be collected unless they are free of trash such as broken glass, cuttings, cans or other debris that might damage collecting equipment.

### SECTION 16-24. – PROHIBITED ITEMS.

In addition to the items specified elsewhere in this article, the following items may not be placed within waste receptacles for collection:

a) Aluminum cans;
b) Recyclable corrugated cardboard;
c) Recyclable rigid plastic containers that are required to be labeled as provided by G.S. 130-309.10(e) that have a neck smaller than the body of the container, and that accept a screw top, snap cap, or other closure;
d) Used oil;
e) Motor vehicle oil filters;
f) Antifreeze (ethylene glycol);
g) White goods (refrigerators, stoves and the like);
h) Lead-acid batteries;
i) Whole scrap tires, as provided in G.S. 130A-309.58(b);
j) Wooden pallets;
k) Oyster shells.

### SECTION 16-25. – RESERVED FOR FUTURE USE.

### SECTION 16-26. – BACKYARD COLLECTION FOR ELDERLY AND DISABLED.

Households in which no one is able to roll the roll-out container to the curb due to age or disability may qualify for backyard garbage collection.

### SECTION 16-27. – USE OF FARM PATH OR ROAD.

When three (3) or more dwellings are located on a farm path or road, the town will collect garbage and/or trash from the front of the dwellings if the property owner enters into an agreement with the town granting the town permission to use the farm path or road for sanitation collection purposes and further agrees that the town will in no way be responsible or obligated for the maintenance of the farm path or road.

### SECTION 16.28. – DISPOSITION OF HEAVY ACCUMULATIONS.

Building materials such as brick, broken concrete, lumber, plaster, ashes, dirt, rocks, sand or gravel, automobile frames and parts, dead trees and other bulky, heavy material shall be disposed of by the owner or person controlling same, according to applicable regulations.

### SECTION 16-29. – OCCUPANT RESPONSIBLE FOR TRASH ALLOWED TO ACCUMULATE.

Garbage and trash allowed to accumulate beyond such time of collection or any garbage or trash ordered removed by the health department shall be the responsibility of the resident, establishment or industry to haul and dispose of same as directed by the health department or director of public works.

### SECTION 16-30. – MULTIPLE HOUSING UNITS.

Multi-family residential housing units and mobile home parks with five (5) units or more are required to use commercial receptacles.

### SECTION 16-31. – NONRESIDENT USE OF COLLECTION SERVICES.

It shall be unlawful for any person not a resident of the town to deposit or cause to be deposited for collection by the town any garbage or trash in any container within the town if such garbage or trash is brought into the town for the purpose of such disposition.

### SECTION 16-32. – PERMIT FOR CUTTING OR TRIMMING TREES; REMOVAL OF CUT OR TRIMMED MATERIALS.

It shall be unlawful for any person(s) to cut or trim trees for compensation within the town without a privilege license. Such person or contractor shall be responsible for removing trimmed limbs, trash and stump.
(Ord. 05-11, passed 5-3-05)

### SECTION 16-33. – SPECIAL SERVICES (AS MANPOWER AND EQUIPMENT AVAILABLE; WRITTEN APPLICATION WITH RIGHT-OF-ENTRY REQUIRED.

(a) Dump truck for debris removal provided for individuals, nonprofits and churches upon request to Public Works Director. A truck will be placed on the property for loading of large amounts of debris by the individual or group. This service may be made available two times per week, no more than four times per year at no cost. An equipment charge will be billed for amounts in excess of the above described use.

(b) On-site pickup of yard and bulk debris available for individual homeowner, when unable to place yard and bulk debris at curbside for pickup or where said bulk waste may obstruct sidewalk or street. The material shall be piled and accessible where no hand or manual cleanup is necessary. A fee for said service shall be charged based on the towns schedule for equipment rental.

(c) Contractor is required to remove shingles, roofing materials and/or other building material generated by contractor's work, where compensation is received for services rendered. Any roofing material or shingles placed for pickup by individual or business where owner performed work shall be billed at equipment rate, plus landfill fees.

(d) Tires placed out for pickup by the town by an individual shall be collected by the Sanitation Department. A report of said collection will be forwarded to the finance office and cost of disposal will be charged to the individual's account. Tires with rims will not be picked up unless the rims are removed.

(e) Yard waste or white goods shall be placed on the property of the person or individual who generates such waste. Said location shall be at the front property line. Said yard waste and white goods shall not be placed so that it interferes with drainage or street sweeping.

(Ord. 05-11, passed 5-3-05)

### SECTIONS 16-34. – 16-40. –RESERVED.

## CHAPTER 3. – RECYCLING.

### SECTION 16-41. – RECYCLING; COLLECTION OF RECYCLED MATERIALS.

The Town strongly encourages recycling efforts. Recycling containers (one per dwelling) are provided by the town at no charge and remain the property of the town. Additional or replacement containers will be provided by the town upon payment of a fee established by the town. Recycling containers shall be stored and placed for collection in accordance with the same requirements applicable to garbage containers. Only those materials that are acceptable for recycling shall be placed within the recycling containers. Recyclable items include: Plastic drink bottles and milk jugs; clear, brown and green glass food or beverage containers; aluminum cans; newspapers bundled, not tied, on top of the container (wet newspapers are acceptable); used motor oil, placed in a clear plastic jug with a secure fitting lid and placed beside the recycling bin; and, recyclable corrugated cardboard. The public works department shall provide adequate public notice from time to time of the types of solid wastes that may be placed within these recycling containers for collection by the town.

### SECTION 16-42. – 16-45. – RESERVED.

## CHAPTER 4. – SOLID WASTE FEES.

### SECTION 16-46. – SOLID WASTE MANAGEMENT FEE.

The Town of Red Springs shall provide for the collection and disposal of garbage and trash in accordance with the requirements and standards set forth in this Title. A solid waste management fee shall be charged to all residents of the town and all businesses and commercial establishments of the town. The fee (or fees) shall be in an amount to be determined from time to time by the Board of Commissioners and listed in the schedule of fees and charges maintained in the Clerk's office.

### SECTIONS 16-47. – 16-50. – RESERVED.

## CHAPTER 5. – PRIVATE HAULERS.PREVENTION AND ABATEMENT OF PUBLIC NUISANCES

### SECTION 16-51. – ROBESON COUNTY FLOW CONTROL.

Effective 4 March 2014, the Town of Red Springs adopted the Robeson County Solid Waste Management Ordinance #20120506 concerning flow control of solid waste in the county. This ordinance provides that all garbage collected within the Town of Red Springs is to be disposed of at a designated Robeson County facility. No private haulers may contract to remove waste from locations within the Town of Red Springs to any location outside the control of Robeson County.

(Resolution adopted March 4, 2014.)

### SECTIONS 16-52. – 16-55. – RESERVED.

# TITLE 17. – STREETS AND SIDEWALKS

## CHAPTER 1. - GENERAL

### SECTION 17.1. – DAMAGE TO STREETS OR SIDEWALKS; RECOVERY OF COSTS TO REPAIR.

No person shall injure, deface or mar in any manner whatsoever any of the streets or sidewalks of the town. The town shall have the right and privilege to repair any such injury, defacement or mar and assess the cost thereof against the offender.

### SECTION 17.2. – GRADES.

The town shall have the authority to establish and change the grades of the streets and sidewalks within the town as may be necessary.

### SECTION 17.3. – GRADE LEVEL OF RAILROAD TRACKS.

a) It shall be unlawful for any railroad company to lay down tracks in or on any street or avenue in the town without having first obtained from the town the proper grade of such street or avenue over which the line of such railroad is to run if such street or avenue has been brought to grade. Such railroad shall be put on exact grade so as not to impede or interfere with travel. If such street or avenue has not been brought to grade, then such railroad must be laid so as to conform to the then surface of the street so as not to interfere with travel over and along such street. If any company shall lay down tracks on streets not brought to grade, the right of the town to grade such street in the future shall not be prejudiced, and the owners, proprietors and lessees of such railroad tracks shall be required to raise or lower such tracks so as to conform to the grade of the streets, without cost to the town, whenever the Board of Commissioners may direct the same to be done.

b) Nothing in this section shall be so construed as to prejudice the existing rights of the town to compel all persons or companies now owning or controlling railroad tracks in the town to raise or lower the tracks so as to conform to grade of streets when such streets are brought to grade.

### SECTION 17.4. – OBSTRUCTION OF STREETS OR SIDEWALKS.

a) No persons shall obstruct any of the streets or sidewalks in the town in such manner as to hinder or delay the travel thereon on foot or otherwise. For purposes of this section, the term "obstruct" means to place a physical barrier or object within such street or sidewalk. In such case it shall be the duty of the police to cause such obstruction removed and to keep such streets and sidewalks clear for the travel of the public.

b) No person shall obstruct any of the streets or sidewalks in the town by placing thereon any boxes, merchandise or other things. This section shall not be construed to prevent merchants from making reasonable use of sidewalks when receiving or shipping goods, nor shall it prevent the use of three (3) feet of sidewalk space next to their stores for the display of goods, provided that no such display shall be made unless the entire sidewalk area is paved from the building or property line to the curb line and +unless ample space is left on sidewalk for pedestrians.

c) This section shall not be construed so as to prohibit the town to barricade, rope off or otherwise obstruct any street or sidewalk in the town when the same may become necessary for the protection, health or welfare of the citizens of the town.

***State Law Reference—*** Town's duty to keep public streets free from unnecessary obstructions, G.S. § 160A-296(a)(2).

### SECTION 17.5. – PROTECTION OF STREETS OR SIDEWALKS UNDER CONSTRUCTION.

No person shall ride, lead or drive or cause to be ridden, led or driven, any horse or other animal or drive or cause to be driven any automobile or other vehicle upon any street or sidewalk when the same is barricaded and under the process of construction, nor shall any person in any other manner cause any damage to such street or sidewalk.

### SECTION 17.6. – VEHICLES ON SIDEWALKS.

No person shall ride, pull, push or drive any vehicle whatsoever, except baby carriages, on any of the sidewalks within the fire limits.

***State Law Reference—*** Driving motor vehicle on sidewalk prohibited, G.S. § 20-160.

### SECTION 17.7. – CERTAIN WHEELS, TIRES, ETC. RESTRICTED.

It shall be unlawful for any person to drive or cause to be driven any traction engine or other vehicle with lugs or corrugations in the wheels thereof over the permanently paved streets of the town, unless suitable provisions are made by planking or otherwise to the satisfaction of the town so that such corrugations or lugs will not damage the pavement.

### SECTION 17.8. – DEPOSIT OF GLASS OR OTHER SHARP OBJECTS ON STREETS.

No person shall throw, place or deposit any glass or other sharp cutting substance or any injurious obstruction in or upon any of the public streets of the town.

***State Law Reference—*** Placing glass or injurious obstruction upon highway prohibited, G.S. § 136-91.

### SECTION 17.9. – AWNING DIMENSIONS.

It shall be unlawful for any person to erect or maintain any awning or other similar object which has a clearance of less than seven (7) feet above the level of any sidewalk or which extends over the traveled portion of the street in front of the building to which it may be attached; provided, however, that stationary awning arms shall be at least eight (8) feet above the level of the sidewalk.

### SECTION 17.10. – DAMAGE TO CURBS.

It shall be unlawful for any person to break and remove the street curbing in any of the town's improved streets, except when a permit for the same has been issued by the town.

***State Law Reference—*** Authority to regulate digging in the streets, G.S. § 160A-296(6); curb cut regulations, G.S. § 160A-307.

### SECTION 17.11. – STREET NUMBERS FOR BUILDINGS.

a) All structures fronting on any street or alley in the town shall be numbered in some conspicuous place, by the owner thereof, according to the map made by the town for such purpose and on file in his office, all odd numbers being on one (1) side of the street and all even numbers on the other.

b) Any person desiring to have a number put on his structure shall first apply to the town for the proper number, and any person failing or refusing to put the proper number on his structure or putting the wrong number thereon or failing or refusing to comply with any other requirement of this section shall be guilty of a misdemeanor.

### SECTION 17.12. – BARBED WIRE PROHIBITED.

No person shall erect, maintain or allow on any premises along any street or alley of the town any barbed wire or barbed wire fence where or in such manner as to constitute a danger to passers-by.

### SECTION 17.13. – WHEN ELECTRIC FENCES ALLOWED.

It shall be unlawful for any person to erect, install or construct, operate or maintain or allow the installation or operation of a fence or similar structure or device which is electrically charged within the corporate limits without obtaining a permit from the building inspector and enclosing such electric fence, structure or device with a fence at least four (4) feet in height and of sufficient density to restrain anyone from coming in contact with such electric fence, structure or device and posting a warning sign.

### SECTIONS 17.14. – 17.25 – RESERVED.

## CHAPTER 2. – LOCAL IMPROVEMENTS.

### SECTION 17.26. – AUTHORITY OF BOARD OF COMMISSIONERS.

The provisions of this article shall not make it mandatory upon the Board of Commissioners to approve any petitions for local improvements, nor shall the Board of Commissioners be obligated in any manner to cause any local improvements to be made pursuant to any petitions that may be approved, and all improvements made or authorized by the Board of Commissioners shall be subject to the availability of funds.

### SECTION 17.27. – PROCEDURES AND METHODS.

The procedures and methods of making public improvements as provided for in this article shall be governed by and be in accordance with the provisions of the General Statutes and the Charter, as amended, as the same shall apply to the town.

### SECTION 17.28. – ASSESSMENTS FOR IMPROVEMENTS - GENERAL.

Except as otherwise provided in this article, all local improvements within the town of the nature set forth in this article shall be made by assessment against the abutting property owners in accordance with the provisions of the General Statutes and the Charter, as amended, as the same shall apply to the town, and the cost of such improvements shall be apportioned as provided in this article. However, in any project for any of the improvements or combination thereof within the town of the nature set forth in this article in which the total cost to be paid by the town for the project will not be more than the total cost to be paid by the town on an assessment basis as set forth in the General Statutes, the

Charter, as amended, and this article and in the project for any such improvements in which all or a portion of the costs thereof are paid from community development block grant funds provided by the federal government, the Board of Commissioners may, in its discretion, elect to perform the project without assessing abutting property owners for any portion of the cost thereof.

### SECTION 17.29. – ASSESSMENTS FOR IMPROVEMENTS - STREETS.

Assessments for street surfacing or resurfacing improvements, except for street intersections, shall be by assessment of one-third of the total cost against the abutting property owners on each side of the street being improved; the remaining one-third and the cost of improving street intersections shall be paid by the town. The total cost subject to assessment shall include engineering costs, excavation, sub-base, base course paving and any other costs which may be involved and shall also include all costs involved in street drainage, piping, catch basins, manholes and associated structures wherever located, except on private property. To the sum of all costs assessed against each property owner, eight (8) percent of that cost will be added to cover legal and assessment costs.

### SECTION 17.30. – ASSESSMENTS FOR IMPROVEMENTS – CURBS AND GUTTERS.

Assessments for curb and gutter improvements shall be made by assessing against the abutting property owner one-half of the total cost per lineal foot of curb and gutter for each foot of the property owner's frontage, with the town to pay one-half of the cost. The cost of curb and gutter shall include engineering, grading and any other costs involved in the curb and gutter portion of the street improvement involved.

### SECTION 17.31. – EFFECT OF PRIOR ASSESSMENTS.

No assessment shall be made against an abutting property owner for street improvements for which an assessment has previously been made.

### SECTION 17.32. – CERTAIN IMPROVEMENTS AT COST OF TOWN.

Street surfacing or resurfacing improvements, including curbs and gutters, at street intersections, exclusive of sidewalks at such intersections, will be paid by the town. The town will share in the cost of oversized street improvements as provided by **Section 17-36**.

### SECTION 17.33. – MAINTENANCE WORK NOT TO BE ASSESSED.

a) Resurfacing of streets which have previously been improved (i) where the costs of such improvements were paid by assessment as provided by state law, the town Charter and this article, or (ii) the total cost of such improvements paid by the town was not more than the town would have paid on an assessment basis, or (iii) such improvements as constructed comply with the right-of-way and design and construction standards shall be considered maintenance and shall be done and performed at the expense of the town without assessment against the abutting property owners.

b) All other surfaced streets classified as local access residential streets shall be maintained in such street's existing condition by patch maintenance until such street has been improved on an assessment basis as provided in this article or has been improved with curb and gutter without assessment at a total cost to the town of not more than the town would have paid on an assessment basis as provided in this article.

### SECTION 17.34. – PROVISION FOR SIDEWALK IMPROVEMENTS WITHOUT ASSESSMENT; PROTECTING THE PUBLIC WELFARE.

If the Board of Commissioners shall, in its discretion, determine that heavy pedestrian traffic exists and likely will continue to exist for an indefinite period along any street within the town and that such pedestrian traffic is generated by facilities operated and maintained by public funds such as a public school and that the convenience, safety and welfare of the public generally would be served and promoted by the construction and maintenance of sidewalks on either or both sides of such street, the Board of Commissioners may cause sidewalks to be constructed on either or both sides of such street without expense to the property owners abutting on such sidewalks.

### SECTION 17.35. – CORNER LOT EXEMPTION.

If a corner lot is used as a single lot, where surfacing and other associated street improvements have already been made on an assessment basis on the intersecting street on which the lot abuts, no assessment shall be made against the lot for improvement on the non-improved side for any part of the frontage of such lot, except that portion in excess of one hundred fifty (150) feet or seventy-five (75) percent of the improved frontage, whichever is greater. This section shall only apply to residential lots.

### SECTION 17.36. – IMPROVEMENTS TO OVERSIZED STREETS.

When a street is to be improved on an assessment basis and it is necessary for the street to be wider than a local access street (thirty-one (31) feet back of curb to back of curb), the abutting property owners shall only be assessed for those improvement costs which would have been assessed if the street had been a local access street, with the remainder of the additional cost being borne by the town. When a street is to be improved on an assessment basis and it is necessary or desirable to use street drainage pipes with a diameter in excess of fifteen (15) inches, the abutting property owners shall only be assessed for the cost of fifteen-inch drainage pipe, with the additional cost of a pipe in excess of fifteen (15) inches in diameter being borne by the town.

### SECTIONS 17.37. – 17.50. – RESERVED.

## CHAPTER 3. – DRIVEWAYS.

### SECTION 17.51. – APPLICABILITY.

Except as otherwise expressly provided, the provisions of this article shall apply and shall govern the construction of all driveways, whether for commercial purposes or establishments or noncommercial purposes or establishments, within the town.

### SECTION 17.52. – PROCEDURE FOR DRIVEWAY IMPROVEMENTS.

Before any driveway shall be constructed, built or repaired within the town, the person desiring to do the same shall:

a) Obtain a zoning permit from the Town;
b) Obtain an appropriate permit from the building inspector;
c) Pay a permit fee in an amount to be determined from time to time by the Board and listed in the schedule of fees and charges maintained in the Clerk's office.

### SECTION 17.53. – NUMBER AND WIDTH OF DRIVES.

No individual driveway entrance constructed within the town shall be of a greater width than fifty (50) feet, measured parallel to the street or roadway, or wider than one-third of the lot frontage, whichever is smaller. If the lot frontage does not permit the use of two (2) driveways of one-third lot frontage as limited in this section, then one (1) combined entrance and exit of a maximum width of fifty (50) feet may be provided. Notwithstanding the above and regardless of the number of driveways, the combined width of all driveways shall not exceed two-thirds of the width of the lot on any street.

### SECTION 17.54. – AREA BETWEEN AND ADJACENT TO DRIVEWAYS.

The frontage on the street or road right-of-way other than the driveway itself shall be both curb and gutter or in the form of a ditch or drain. Modification thereof may be permitted, provided proper drainage is constructed and curbs or posts or other safeguards are installed to prevent misuse. A written permit for any modification must be obtained from the town before any work is started.

### SECTION 17.55. – RETURN RADII.

Suitable return radii for driveways shall be provided as determined by the building inspector.

### SECTION 17.56. – CORNER SIGHT AREAS.

At intersections where sight-distance or clear-vision areas have been obtained, no driveway shall be permitted to cross such areas. The driveway at the right-of-way line should begin at a point no closer than the intersection of the sight-distance line and the right-of-way line.

### SECTION 17.57. – DRAINAGE.

The drainage in street or roadside ditches shall not be altered or impeded. The person constructing any driveway within the town shall provide suitable drainage structures at entrances and exits at his own expense.

### SECTION 17.58. – INTERSECTIONS.

No driveway or entrance shall be permitted to enter directly into an intersection, but shall be so placed as to turn traffic into a major or minor street before passing through the intersection.

### SECTION 17.59. – PROPERTY LINE OFFSET – COMMERCIAL DRIVEWAYS.

All commercial driveways shall be so located that the flared portion thereof adjacent to the travelled way will not encroach on adjacent property. A minimum distance of five (5) feet shall be reserved between the driveway and the property line.

### SECTION 17.60. – PROPERTY LINE OFFSET – NON-COMMERCIAL DRIVEWAYS.

All noncommercial driveways shall be so located that the flared portion thereof adjacent to a traveled way shall not encroach on adjacent property. A minimum distance of eighteen (18) inches shall be reserved between the driveway and the property line.

### SECTION 17.61. –COMMERCIAL DRIVEWAY ENTRANCES AND EXITS.

For all commercial driveways, curbs, channelizing islands or posts shall be so constructed or placed as to define entrances and exits to the degree needed to prevent entire frontages from being used as driveways and thereby

eliminating parking immediately adjacent to the travelled way and in front of business places. Between each driveway, if there is more than one (1), there shall be a channelizing island between the property line and the street curb for a minimum length parallel with the street of eight (8) feet along the property line and such greater length along the curb.

### SECTION 17.62. – ANGLE OF COMMERCIAL DRIVEWAYS.

The angle of commercial driveways shall not be less than forty-five (45) degrees with the edge of the street or roadway, except that on dual streets or roadways where there is a median strip, the entrance angle may be decreased to not less than thirty (30) degrees. Exit drives onto dual streets or roadways shall have an angle of not less than sixty (60) degrees with the edge of the street or roadway.

### SECTION 17.63. – SLOPE OF COMMERCIAL DRIVEWAYS.

The grade of entrance and exit of commercial driveways shall slope away from the street or road surface at a rate of not less than one-fourth inch per foot and not more than one (1) inch per foot for the distance between the sidewalk and the street or roadway, unless the grade of the sidewalk requires a variance there from.

### SECTIONS 17.64. – 19.70. – RESERVED.

## CHAPTER 4. – CONTROL OF VEGETATION AT INTERSECTIONS.

### SECTION 17.71. – DEFINITIONS.

For the purpose of this article, "street gutter flow line" means the street gutter flow line of the curb adjacent to and bordering upon each such restricted area. If there is no such curb, the height restrictions set forth in this article shall be based upon the actual level of the paved or used portion of the public street adjacent to and bordering upon each such restricted area.

### SECTION 17.72. – ENFORCEMENT.

In addition to any penalty which may be imposed for the violation of this article, the town shall have the power, subject to constitutional limitations, to enter upon and remove from the triangular corner areas described in this article any of the growths prohibited by this article. The town shall not be liable to the owners of such property for such entry and removal.

### SECTION 17.73. – RESTRICTED AREAS.

a) The areas in the town restricted by the provisions of this article are as follows:

1) All of that portion of land lying within a triangular shaped area on each street corner within the town described by metes and bounds as follows:

Beginning at the precise corner of intersection point of the curbs of each of the two (2) streets forming each corner and extending twenty (20) feet along each such curb line from the curb intersection point, the third side being determined by the drawing of a straight line from the

ends of such twenty-foot extensions, whether the land is privately owned or unpaved or untraveled street right-of-way property.

2) Where no curbs are in existence at such street intersections, the twenty-foot lines shall coincide with the central flow line of the ditches paralleling such uncurbed streets as shall be determined by the town.

b) However, the provisions of this article shall apply only to those areas of the town designated and classified by the town's zoning ordinance requiring construction on lots in zoned sections to be set back from the property line of each such lot.

### SECTION 17.74. – MAXIMUM HEIGHT OF GROWTH.

No person shall plant, grow or maintain in any restricted area described in this article any plant, hedge, shrub or other growth, except trees, at a height greater than three (3) feet from the street gutter flow line.

### SECTION 17.75. – MINIMUM CLEARANCE OF TREES.

Any trees planted, grown and maintained in any restricted area described in this article shall not have branches or foliage extending from the trunk thereof at a height lower than ten (10) feet from the street gutter flow line.

### SECTIONS 17.76. – 17.80 – RESERVED.

## CHAPTER 5. – STREET NAMES AND NUMBERING.

### SECTION 17.81. – STREET NAMES AND PROPERTY NUMBERING MAP; ASSIGNMENT.

That certain map, which is and shall remain on file in the office of the Town Clerk, and which is entitled "The Street Naming and Property Numbering System of the Town of Red Springs, North Carolina," and dated May, 1960, is hereby adopted as the official street naming and property numbering map of the town. All street names and property numbers assigned shall be in accordance with this map. No other street names or property numbers shall be used or displayed in the town, except names and numbers assigned in accordance with the official map.

('70 Code, § 16-16; 2009 Supp) (Ord. passed 5-3-60)

### SECTION 17.82. – NUMBER SYSTEM DESCRIBED.

On the map adopted by **Section 17.81**. there shall be designated a north-south axis and an east-west axis, and all avenues, streets, or alleys running generally north and south shall be numbered from the east-west axis consecutively to the town limits or to the extremity of such avenue, street, or alley. Avenues, streets, or alleys running generally east and west shall be numbered from the north-south axis in the same manner. Where there are minor exceptions to this, the map as adopted shall govern. One hundred numbers shall be allowed to each block so that the number of each consecutive block shall commence with consecutive hundreds and one.
('70 Code, § 16-17, 2009 Supp)

One whole number shall be assigned for every 50 feet of ground, whether improved property or vacant lot, on each street within the town, except in the area designated by the Board of Commissioners as the business area, in which one whole number for each 25 feet of ground, whether improved or not, shall be assigned. Odd numbers shall be assigned to the left side of the street and even numbers to the right side going from the axis toward the town limits.
('70 Code, § 16-18, 2009 Supp) (Ord. passed 5-3-60

### SECTION 17.83. – INSTALLATION AND DISPLAY OF NUMBERS.

Owners of residences, business buildings, and other improved property shall install and maintain thereon the numbers assigned thereto in accordance with the map adopted, and all residences and business buildings erected hereafter shall be assigned a number in accordance with that map. Numbers shall be displayed in a conspicuous place on the property to which they appertain, so as to be easily read from the street line, and they shall be of aluminum metal or other type approved by the Board of Commissioners.

('70 Code, § 16-19) (Ord. passed 2-2-60; Am. Ord. passed 5-3-60)

### SECTION 17.84. – ALTERING, DEFACING OR REMOVING NUMBERS.

It shall be unlawful for any person to alter, deface, or take down any number placed on any property in accordance with this subchapter, except for repair or replacement of such number.

('70 Code, § 16-20) (Ord. passed 5-3-60)

# TITLE 18. – VEHICLES FOR HIRE

## CHAPTER 1. - GENERAL

### SECTION 18-1. – 18-10. – RESERVED

## CHAPTER 2. – TAXICABS, LIMOUSINES AND OTHER VEHICLES FOR HIRE

### SECTION 18-11. - DEFINITIONS

As used in this division, the following words and phrases shall have the meanings respectively ascribed to them:

***Certificate*** shall mean a certificate of convenience and necessity granted to the owner of a taxicab business by the Board of Commissioners for each taxicab operated by him in the town.

***Driver*** shall mean any person physically in charge of or driving a taxicab.

***Owner*** shall mean any person having control of the operation or maintenance and collection of the revenue of taxicabs.

***Permit*** shall mean a permit granted by the town to the driver of a taxicab.

***Street*** shall mean any street, alley, avenue, lane, public place or highway within the town.

***Taxicab*** shall mean **any** vehicle for hire for the purpose of transporting passengers upon the streets, except vehicles operating over a fixed route and between fixed termini.

### SECTION 18-12. – OPERATORS AND DRIVERS DISTINGUISHED

a) "To operate one or more taxicabs" shall mean to engage in the taxicab business with such taxicabs in the town by causing taxicabs which are under a person's ownership or control to be propelled, either by himself or by someone under his direction or supervision, for the purpose of carrying passengers for hire. An operator is a person who operates one or more taxicabs.

b) "To drive a taxicab" shall mean to be physically in control of a taxicab whether or not such taxicab be in motion, when such taxicab is being used for, or is available or ready to be used for, the carrying of passengers for hire. A driver is one who drives a taxicab. The same person may or may not be both an operator and a driver.

### SECTION 18-13. – VEHICLE FOR HIRE INSPECTOR.

a)` There is hereby created the office of vehicle for hire inspector (referred to in this article as the "inspector"). The inspector shall be appointed by the Board of Commissioners and shall enforce the

provisions of this article and shall fulfill all duties required under this article, including the inspection of any vehicle for hire and the issuance of all driving permits.

b) The inspector shall advise the Board of Commissioners with regard to matters covered or incidentally involved in the operation or administration of this article. He shall make recommendations with respect to the adequacy of service and whether or not there are too many or too few vehicles to serve the public's convenience or necessity, and he shall make such other reports and furnish such other information to the city Board as may be requested from the city Board from time to time.

***State Law Reference—*** Power f town to regulate, etc. drivers and operators of vehicles for hire, G.S. § 20-37 and G.S. § 160A-304; authority to levy tax on taxicabs, G.S. § 20-97; Financial responsibility of taxicab operators, G.S. § 20-280.

### SECTION 18-14. –INFORMATION TO BE FILED BY OWNER/OPERATORS.

Every owner shall file with the inspector the owner's name, business address, home address, if applicable, business and home telephone numbers and a list showing the serial number and make of all vehicles for hire owned and operated by the owner and names, license numbers and addresses of all drivers working for the owner, and, within three days after any change in connection with such information, the owner shall report such change to the inspector. If the owner is a partnership or a limited liability company, the names, business addresses, home addresses and home telephone numbers shall be given for each of the partners or members thereof.

### SECTION 18-15. – ADDITIONAL PASSENGERS.

No taxicab driver shall permit any other person to occupy or ride in the taxicab, unless the person or persons first employing the taxicab shall consent to the acceptance of additional passenger or passengers.

### SECTION 18-16. – MAXIMUM SEATING.

It shall be unlawful to carry in a taxicab more than five (5) passengers in any taxicab, and in no event shall more than two (2) passengers ride in the front seat with the driver.

### SECTION 18-17. – RECEIPT, DISCHARGE OF PASSENGERS.

No driver of a taxicab shall receive or discharge passengers in the roadway of any street, but shall drive to the right-hand sidewalk, as nearly as possible, or, in the absence of a sidewalk, to the extreme right-hand side of the road, and there receive or discharge passengers.

### SECTION 18-18. – ACTING ON BEHALF OF PROSTITUES AND UNLAWFUL ESTABLISHMENTS.

It shall be unlawful for any taxicab driver or owner to act in any manner as a panderer or pimp for prostitutes or as contact for unlawful establishments of any character, or to knowingly transport any passenger to the abode of a prostitute.

### SECTION 18-19. – ALCOHOLIC BEVERAGES – TRANSPORTATION PROHIBITED.

It shall be unlawful to transport alcoholic beverages, not owned and in the exclusive possession and control of a fare-paying passenger, in the taxicab or for any taxicab driver to have on his person any alcoholic beverages while driving and operating a taxicab in service.

### SECTION 18-20. – ALCOHOLIC BEVERAGES- CONSUMPTION IN VEHICLE.

It shall be unlawful for any driver or passenger of any taxicab to drink alcoholic beverages of any kind while inside the taxicab.

### SECTION 18-21. – ALCOHOLIC BEVERAGES – SALE.

No driver of a taxicab or owner of a taxicab shall engage in selling intoxicating liquors or soliciting business for any person selling intoxicating liquors.

### SECTION 18-22. – DISPLAY OF RATES.

There shall be posted in each taxicab at a conspicuous place a copy of the rates for the hiring of the taxicab.

### SECTION 18-23. – ENGAGING TAXI SERVICE WITH THE INTENT TO DEFRAUD.

It shall be unlawful for any person to fraudulently engage of use any taxicab not intending at the time to pay for the use of the taxicab and then refuse to pay the regular rates charged by the operators.

### SECTION 18-24. – CERTIFICATE OF CONVENIENCE AND NECESSITY REQUIRED.

It shall be unlawful for any person to operate a taxicab upon and over the streets of the town without first having applied for and secured from the Board of Commissioners a certificate of convenience and necessity for each vehicle operated.

***State Law Reference—*** *Requirement of certificate of public convenience and necessity, G.S. 20-87;* State license for taxicab not to issue unless town has issued certificate of public convenience and necessity, G.S. § 20-87(c). *Authority to grant taxicab franchises and to limit number of cabs in operation, G.S. 160A-304.*

### SECTION 18-25. – APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY.

Each person desiring to operate a taxicab upon and over the streets of the town shall file on forms supplied by the town Clerk an application for a certificate of convenience and necessity.

### SECTION 18-26. – SCHEDULE FOR HEARING APPLICATIONS.

Each application for a certificate of convenience and necessity shall be scheduled for a hearing at the next regularly scheduled meeting of the Board of Commissioners; provided, such application shall be filed with the town Clerk at least ten (10) days prior to such regularly scheduled meeting, otherwise, the hearing will be held at such time as the Board of Commissioners shall determine.

### SECTION 18-27. – LIABILITY INSURANCE.

a) Each applicant for a certificate required by this division shall first furnish, and shall thereafter keep in force and effect, for each such vehicle operated by him under this article, a policy of liability insurance, providing liability insurance in the amount specified by state law. Such liability insurance shall be provided by a company authorized and licensed to do business in the state and at least having a process agent in the state.

b) Compliance with subsection (a) insurance is declared to be a condition precedent to the operation of any of the taxicabs upon the public streets of the town.

***State Law Reference—*** Proof of financial responsibility as requisite to obtaining any certificate of convenience and necessity, G.S. § 20-280.

### SECTION 18-28. – FACTORS FOR DETERMINATION OF CONVENIENCE AND NECESSITY.

a) In determining whether the public convenience and necessity requires the franchising of a taxicab, the Board of Commissioners shall, among other things, take into consideration the following factors:

1. The financial responsibility of the applicant and the likelihood of the proposed service being permanent, responsible and satisfactory.
2. The number and condition of equipment.
3. The number of taxicabs now operated and the demand for increased service, if any, and whether or not the safe use of streets by the public, both vehicular and pedestrian, will be preserved, and whether or not adequate provision has been made for off-street parking of such taxicabs.
4. The experience of applicant in the taxicab business.
5. Such other relative facts as may be deemed necessary and advisable. Before making any decision with respect to the issuance of a certificate of convenience and necessity, the Board of Commissioners shall make a full and complete investigation of all facts, and may, if it so desires, subpoena witnesses and utilize the service of the chief of police or any other officer or employee of the town.
6. The burden of proof shall be upon the applicant to establish the existence of public convenience and necessity for the operation of the taxicab specified in his application, and all other facts required for the granting of a certificate.

### SECTION 18-29. - ISSUANCE OR DENIAL.

The Board of Commissioners shall have power and it shall be its duty to order certain certificates issued, to refuse to issue certain certificates or to issue certificates for a partial exercise only of the privileges sought. The Board of Commissioners may attach to the exercise of the rights granted by such certificates such terms and conditions as in its judgment the public convenience and necessity may require.

### SECTION 18-30. – FAILURE TO BEGIN OPERATIONS WITHIN 60 DAYS.

If a certificate is granted to an applicant and the applicant shall fail, in accordance with the provisions of the certificate, to begin operations within sixty (60) days after the date of such certificate, then the certificate shall become null and void.

### SECTION 18-31. – TRANSFER.

A certificate of convenience and necessity is not transferable without the consent of the Board of Commissioners. Application for a permit to transfer shall be filed in the same manner as an application for a certificate of convenience

and necessity. The proceedings upon such application for a transfer shall be the same as those described for the issuance of a certificate.

### SECTION 18-32. - REVOCATION.

The Board of Commissioners may, at any time after a public hearing, revoke any certificate issued by authority of this division for any one (1) or more of the following causes:

a) Failure to operate the taxicab specified in the certificate in such manner as to serve the public adequately and efficiently.
b) Failure to maintain motor equipment in good repair.
c) Failure to carry liability insurance.
d) Failure to pay to the town taxes or license fees imposed upon taxicabs.
e) Repeated and persistent violation by the taxicab drivers of traffic and safety ordinances.
f) Violation of state laws relating to alcoholic beverages or prostitution.
g) Failure to report accidents.
h) Willful failure to comply with any provision of this chapter or other provisions of this Code or other town ordinances or state laws relating to the operation of taxicabs.
i) Violating ordinances fixing fares or failure to post cab fares charged.
j) Possession of any intoxicating liquors as defined by the laws of this state by any taxicab driver while in the operation of any taxicab owned by the holder of a certificate of convenience and necessity.

### SECTION 18-33. - DUE PROCESS FOR REVOCATION.

No certificate shall be revoked until the owner has had at least five (5) days' notice by personal service or registered mail of the charges against him, and of the time and place of the hearing. If, after the hearing, it is found that the owner is guilty of one or more of the offenses listed herein, the Board of Commissioners shall have the power to revoke the certificate, or to condition a revocation upon compliance of its order within any time fixed by it.

### SECTION 18-34. – SUBSTITUTION OF VEHICLES.

Any person to whom a certificate of convenience and necessity has been issued may, by appropriate endorsement thereon by the town manager, substitute other vehicles for the vehicles for which certificates were granted. In such instance, the liability insurance or bonds shall also be transferred to such substitute vehicles.

### SECTION 18-35. – REGULARITY OF OPERATION.

Each person having complied with the provisions of this chapter and obtained a certificate of convenience and necessity to operate a taxicab shall be required to operate the taxicab in his business with reasonable regularity. The certificate of convenience and necessity of each taxicab operator shall be subject to revocation if the operator fails to operate the taxicab for any period of sixty (60) days. Each operator of a taxicab who fails to operate it over any period of sixty (60) days shall be given ten (10) days' notice to appear before the Board of Commissioners to show cause why his certificate of convenience and necessity should not be revoked. If, upon such hearing, it shall appear that the taxicab is not being operated in the interest of the convenience and necessity of the public and not being operated with reasonable regularity, the Board of Commissioners is authorized to revoke the certificate of convenience and necessity.

### SECTION 18-36. – CRIMINAL HISTORY OF APPLICANTS.

The police department and its full-time employees are authorized to access the DCI/SBI Criminal History Record Information to check the state repository for the criminal history of all applicants for certificates of necessity and convenience and taxi driver permits.

Applicants for these certificates and permits will be rejected if they have been convicted of any felony or any misdemeanor involving the use, sale or possession of a controlled substance or fraud.

### SECTION 18-37. – DRIVER'S PERMITS REQUIRED.

It shall be unlawful for any person to drive any vehicle for hire within the city, or within a distance of five miles thereof, without first having obtained a vehicle for hire driver's permit as provided in this division.

*State Law Reference*— Power of city as to permits, G.S. 20-37, 160A-304.

### SECTION 18-38. – APPLICATION.

An application for a vehicle for hire driver's permit shall be made upon blanks furnished by the city for such purpose and shall state, among other things, the name, address, physical condition, physical description, former employers, present or prospective employer, court record and state chauffeur's license number.

### SECTION 18-39. – QUALIFICATIONS.

No person shall be eligible to receive a vehicle for hire driver's permit, as provided in this division, nor shall a certificate holder permit any person to drive a vehicle for hire under this division unless such person possesses the following minimum qualifications:

(1) Mental and physical condition.

a. Drivers shall have no mental, nervous, organic or functional disease likely to interfere with safe driving.

b. Drivers shall have no loss or impairment of the use of the foot, leg, fingers, hand or arm, or other structural defect or limitation likely to interfere with safe driving.

(2) Eyesight. The eyesight of the drivers shall comply with the following requirements:

a. Visual activity shall be at least 20/40 (Snellen) in each eye, with or without glasses or corrective lens;

b. Form field of vision in the horizontal meridian shall be at least a total of 140 degrees; and

c. The ability to distinguish between the colors red, green and yellow.

Drivers requiring correction by glasses or corrective lens shall use prescribed eye wear at all times when operating a vehicle for hire.

(3) Hearing. Hearing of drivers shall not be less than 10/10 in the better ear, for conversational tones, with or without a hearing aid. Drivers requiring aids shall wear the aids, in proper operating condition, at all times when driving.

(4) Liquor, narcotics and drugs. Drivers shall not be addicted to the use of narcotics or habit-forming drugs, or the excessive use of alcoholic beverages or liquors.

### SECTION 18-40. – PROOF OF MEETING PHYSICAL AND MENTAL REQUIREMENTS.

Prior to the issuance or renewal of any driver's permit, the inspector may, in his sole discretion, require the applicant to furnish written medical proof that the driver meets the physical and mental requirements of this code. Such written proof shall be transmitted by the doctor to the inspector and kept on file in the inspector's office.

### SECTION 18-41. – INVESTIGATION OF THE APPLICANT.

The inspector shall investigate the applicant for a vehicle for hire driver's permit in any way he sees fit and in order to confirm the facts stated in the application filed as provided in this code. If the inspector shall find that such applicant is of good moral character, sound physical and mental condition, and without infirmities which might render him unfit for the safe operation of a vehicle, and such applicant is a citizen of the United States and is not a habitual violator of the traffic laws, then, unless such applicant shall be ineligible by reason of the further provisions of this division, the inspector shall issue the driver's permit.

### SECTION 18-42. – REFUSAL TO APPROVE APPLICATIONS.

(a) If the applicant for a vehicle for hire driver's permit, as required by this division, shall have been convicted two times of the crime of manslaughter by a motor vehicle; two times of assault with a motor vehicle; three times of speeding; two times of reckless driving; two times of violation of any law regulating or prohibiting the possession, sale or use of alcoholic liquors, narcotics or drugs or three times of aiding and abetting in the violation of any such laws; or two times of violation of any of the provisions of G.S. 14-204 in regard to prostitution and assignation, then the inspector shall refuse to approve the application.

(b) If such applicant shall have been convicted of speeding or aiding in the violation of any law regulating or prohibiting the possession, sale or use of alcoholic liquors, narcotics or drugs within the six-month period immediately preceding the date of his application or shall have been convicted for the second time of speeding or aiding in the violation of any law regulating or prohibiting the possession, sale or use of alcoholic liquors, narcotics or drugs within the two-year period immediately preceding the application, then the inspector shall refuse to approve the application.

(c) If such applicant shall have been convicted of speeding or aiding in the violation of any law regulating or prohibiting the possession, sale or use of alcoholic liquors, narcotics or drugs within the six-month period immediately preceding the date of his application or shall have been convicted for the second time of speeding or aiding in the violation of any law regulating or prohibiting the possession, sale or use of alcoholic liquors, narcotics or drugs within the two-year period immediately preceding the application, then the inspector shall refuse to approve the application.

(d) If such applicant shall have been convicted for the third time within the two-year period immediately preceding the date of his application of violation of any traffic laws or regulations other than as specifically named in this section, then the inspector shall refuse to approve the application.

### SECTION 18-43. – FEES.

(a) Except as otherwise provided, the applicant for a vehicle for hire driver's permit, as required by this division, shall pay to the town the currently required amount for such permit, which sum shall accompany the application. Such permit fee shall be for a permit to drive a vehicle for hire for the remainder of the fiscal year during which the driver's permit was issued. If no permit is issued to the applicant because of a reason as set forth in this division, the permit fee shall be retained by the city to defray the expense of the investigation of the applicant.

(b) If a vehicle for hire driver's permit issued under this division is suspended or revoked for any cause as provided in this division or if the person to whom the vehicle for hire driver's permit is issued voluntarily turns in such permit to the vehicle for hire inspector before the expiration of such permit, there shall be no refund of the fee paid for the driver's permit.

(c) If a driver allows his permit to expire by not renewing the permit on an annual basis, and he later applies for another driver's permit, the application shall be treated as a new application and the driver shall pay to the city treasurer the currently required amount as provided in subsection (a) of this section.

(d) Upon the annual renewal of a vehicle for hire driver's permit, the payment of the current renewal fee shall be required.

### SECTION 18-44. – ISSUANCE.

Upon the inspector's approval of an application for a vehicle for hire driver's permit, filed as provided in this division, the inspector shall issue, pursuant to this division and upon the payment of the required fees, a vehicle for hire driver's permit pursuant to the approved application.

### SECTION 18-45. – DISPLAY.

At all times while driving or in charge of a vehicle for hire, each driver shall prominently display in such vehicle the vehicle for hire driver's permit issued under this division to such driver, so as to be easily visible to the passengers in such vehicle.

### SECTION 18-46. – DESIGNATION OF OWNER FOR WHOM PERMIT HOLDER TO DRIVE.

A vehicle for hire driver's permit issued under this division shall specify the owner for whom the holder of the permit is to drive. No driver shall drive a vehicle for hire for any owner other than the owner designated in the vehicle for hire driver's permit issued to such driver without procuring a new permit from the inspector designating such new owner.

### SECTION 18-47. – REVOCATION AND SUSPENSION.

(a)At any time after the issuance of a vehicle for hire driver's permit to any person, the inspector shall revoke or suspend the permit if the permittee shall be convicted of any of the following offenses, and such permit shall be revoked or suspended for the period set forth for each offense in the following table:

| | Any Person Convicted For: | Licenses Will Be Revoked For a Period Of: |
|---|---|---|
| (1) | Manslaughter by a vehicle | First offense, 12 months<br>Second offense, permanent |
| (2) | Assault with a vehicle | First offense, 12 months<br>Second offense, permanent |
| (3) | Speeding, within a 12-month period | First offense, five days<br>Second offense, 30 days |
| (4) | Reckless driving, within a 12-month period | First offense, 30 days; Second offense, three months |
| (5) | Violation of any law regulating or prohibiting the possession, sale or use of alcoholic liquors | First offense, 12 months<br>Second offense, permanent |
| (6) | Aiding and abetting in violation of any law regulating or prohibiting the possession, sale or use of alcoholic liquors | First offense, five months<br>Second offense, 12 months<br>Third offense, permanent |
| (7) | Operation of vehicle while under influence of an intoxicant or controlled substance | First offense, permanent |
| (8) | Violation of any of the provisions of G.S. 14-204 in regard to prostitution and assignation | First offense, 12 months<br>Second offense, permanent |
| (9) | Any three convictions of violating any traffic laws or regulations within a 12-month period | Twelve months |
| (10) | Any two convictions in any subsequent 12-month period | Permanent |
| (11) | Operating after license suspended or revoked and before reinstatement | Additional 12 months |
| (12) | Drivers of vehicle for hire who cruise and pick up passengers and charge less than the prescribed fees | First offense, 60 days<br>Second offense, 12 months |
| (13) | Felony | Permanent |
| (14) | Violation of federal or state statutes relating to the use, possession or sale of intoxicating liquors or narcotic or barbiturate drugs | Permanent |
| (15) | For making false statements in an application to obtain a driver's permit | Permanent |
| (16) | For violating the provisions of this division, other than as set out in this section | Permanent |
| (17) | Habitual use or addiction of intoxicating liquors or narcotic or barbiturate drugs | Permanent |

(b) At any time after the issuance of a vehicle for hire driver's permit to any person under this division, such permit may be revoked by the inspector if the permittee is found to be persistently violating the provisions of this division or for any other causes which may be set out in the provisions of this Code or other ordinance of the city.

### SECTION 18-48. – RENEWAL.

The holder of a vehicle for hire driver's permit issued under this division shall renew such permit annually on or before July 1.

### SECTION 18-49. – RESPONSIBILITY OF THE OWNER OF VEHICLE FOR HIRE.

The owner of the vehicle for hire shall be responsible to make sure all drivers working for him shall have valid driver's permits, and it shall be the duty of the owner to report to the inspector any violation of the regulations set forth in this division and, further, to report to the inspector any change in the mental and/or physical condition of any driver.

### SECTIONS 18-50. – 18-60 – RESERVED.

# APPENDICES

A. Ordinance Comparison Chart .....418
B. Index .....425

# COMPARISON CHART

**Existing to Proposed Code of Ordinances**

| EXISTING ORDINANCES | SECTION NUMBER | PROPOSED ORDINANCE | CHAPTER NUMBER |
|---|---|---|---|
| ***General Provisions*** | ***Title I*** | Title 1 - General Provisions | |
| | Chapter 10 | General Provisions | Chapter 1 |
| ***Administration*** | ***Title III*** | Title 2 - Administration | |
| Board of Commissioners | Chapter 30 | Board of Commissioners | Chapter 1 |
| Town Officials | Chapter 31 | Deputies, Assistants, and Acting Town Officers | Chapter 2 |
| Departments, Boards and Commissions | Chapter 32 | Deputies, Assistants, and Acting Town Officers and Title for each Department | Chapter 2 |
| | | Code of Ethics | Chapter 3 |
| Employment Policies | Chapter 33 | Personnel | Chapter 4 |
| Municipal Elections | Chapter 34 | Municipal Elections | Chapter 5 |
| Administrative Procedures | Chapter 35 | Administrative Procedures | Chapter 6 |
| Town Fiscal Policies | Chapter 36 | Town Fiscal Policies | Chapter 7 |
| ***Public Works*** | ***Title V*** | Title 14 - Public Works: Water and Wastewater / Title 15 -Public Works: Electrical Power Service | |
| Water, Lights and Sewers | Chapter 50 | Title 14 - Public Works: Water and Wastewater / Title 15 -Public Works: Electrical Power Service | Chapters 1-10 / Chapters 1-6 |
| Public Works | Section 50.01 | Title 14 - Public Works: Water and Wastewater: General Provisions | Chapter 1 |
| | | Title 14 - Public Works: Water and Wastewater: Extension of water and sewer outside of town | Chapter 2 |
| By Resolution | | Title 14 - Public Works: Water and Wastewater: Rates and Charges | Chapter 3 |

| EXISTING ORDINANCES | SECTION NUMBER | PROPOSED ORDINANCE | CHAPTER NUMBER |
|---|---|---|---|
| By Resolution | | Title 14 - Public Works: Water and Wastewater: Billing and Payments | Chapter 4 |
| | | Title 14 - Public Works: Water and Wastewater: Disconnection and Reconnection of utility service | Chapter 5 |
| | | Title 14 - Public Works: Water and Wastewater: Irrigation Water Meters | Chapter 6 |
| | | Title 14 - Public Works: Water and Wastewater: Right to Suspend Service | Chapter 7 |
| Available but not codified | | Title 14 - Public Works: Water and Wastewater: Water Shortage Response Plan | Chapter 8 |
| Public Works | Sections 50.30 - 50.34 | Title 14 - Public Works: Water and Wastewater: Sewer Use Ordinance | Chapter 9 |
| Available but not codified | | Title 14 - Public Works: Water and Wastewater: Fats, Oils and Grease | Chapter 10 |
| Public Works | Sections 50.35-50.40 | Title 15 - Electrical Power Service: General Provisions | Chapter 1 |
| Public Works | Sections 50.50 and 50.56 | Title 15 - Electrical Power Service: Rates and Charges | Chapter 2 |
| | | Title 15 - Electrical Power Service: Poles and Wires | Chapter 3 |
| | | Title 15 - Electrical Power Service: Joint Municipal Power Agency | Chapter 4 |
| | | Title 15 - Electrical Power Service: Load Management | Chapter 5 |
| | | Title 15 - Electrical Power Service: Renewable Energy | Chapter 6 |
| ***Traffic Code*** | ***Title VII*** | Title 8- Motor Vehicles and Traffic Code | |
| General Provisions | Chapter 70 | Title 8- Motor Vehicles and Traffic Code | Chapter 1 |
| Traffic Rules | Chapter 71 | Title 8- Motor Vehicles and Traffic Code | Chapters 2 and 3 |
| Stopping, Standing and Parking | Chapter 72 | Title 8- Motor Vehicles and Traffic Code | Chapters 2 and 3 |
| Traffic Schedules | Chapter 73 | Title 8- Motor Vehicles and Traffic Code | Chapters 2 and 3 |

| EXISTING ORDINANCES | SECTION NUMBER | PROPOSED ORDINANCE | CHAPTER NUMBER |
|---|---|---|---|
| ***General Regulations*** | ***Title IX*** | Varied - See Below | |
| | | | |
| Animals | Chapter 90 | Title 4- General and Supplemental Regulations | Chapter 2 |
| Cemeteries | Chapter 91 | Title 4- General and Supplemental Regulations | Chapter 3 |
| Civil Emergencies | Chapter 92 | Title 13 - Public Safety | Chapter 3 |
| Fire Protection | Chapter 93 | Title 13 - Public Safety | Chapter 2 |
| Garbage and Refuse | Chapter 94 | Title 16 - Public Works: Solid Waste and Recycling: General Provisions | Chapter 1 |
| Garbage and Refuse | Sections 94.15 - 94.23 | Title 16 - Public Works: Solid Waste and Recycling: Collection Service | Chapter 2 |
| | | Title 16 - Public Works: Solid Waste and Recycling: Recycling | Chapter 3 |
| | | Title 16 - Public Works: Solid Waste and Recycling: Solid Waste Fees | Chapter 4 |
| Available but not codified | | Title 16 - Public Works: Solid Waste and Recycling: Private Haulers | Chapter 5 |
| Health and Sanitation; Weeds/ Prevention and Abatement of Nuisances | Chapter 95/Chapter 94, Sections 94.30 - 94.39 | Title 5- General Offenses, Nuisances, and Miscellaneous Provisions | Chapters 2 and 4 |
| Noise | Chapter 96 | Title 5- General Offenses, Nuisances, and Miscellaneous Provisions | Chapter 1 |
| Open Housing | Chapter 97 | Title 7 - Housing | Chapter 1 |
| Streets and Sidewalks | Chapter 98 | Title 17 - Streets and Sidewalks: General Provisions | Chapter 1 |
| | Sections 98.15 - 98.19 | Title 17 - Streets and Sidewalks: Local Improvements | Chapter 2 |
| | | Title 17 - Streets and Sidewalks: Driveways | Chapter 3 |
| | | Title 17 - Streets and Sidewalks: Control of Vegetation at Intersections | Chapter 4 |

| EXISTING ORDINANCES | SECTION NUMBER | PROPOSED ORDINANCE | CHAPTER NUMBER |
|---|---|---|---|
| | Sections 98.45 - 98.48 | Title 17 - Streets and Sidewalks: Street Nmes and Numbers | Chapter 5 |
| Smoking in Specified Places Prohibited | Chapter 99 | Title 6- Health and Sanitation | Chapter 4 |
| Alarm Systems | Chapter 100 | Title 13 - Public Safety | Chapter 1 |
| ***Business*** | ***Title XI*** | Varied - See Below | |
| Business Licenses; Sunday Sales | Chapter 110 | Title 9 - Occupational Licenses, Taxes and Regulation | Chapter 1/ Sunday Sales deleted |
| Pool and Billiard Rooms | Chapter 111 | Title 11 - Planning and Zoning: District Regulations | Chapter 6 |
| Taxicabs | Chapter 112 | Title 18 - Vehicles for Hire | Chapters 1 and 2 |
| Blank | Chapter 113 | | |
| Blank | Chapter 114 | | |
| Computer Gaming Establishments | Chapter 115 | Title 4- General and Supplemental Regulations: Supplemental Regulations | Chapter 4 |
| ***General Offenses*** | ***Title XIII*** | Title 5- General Offenses, Nuisances, and Miscellaneous Provisions | |
| Offenses Against the Public Peace | Chapter 130 | Offenses | Chapter 1 |
| Offenses Against Property | Chapter 131 | Offenses | Chapter 1 |
| Offenses Against Morals | Chapter 132 | Offenses | Chapter 1 |
| ***Land Usage*** | ***Title XV*** | Varied - See Below | |
| | | Title 3 - Buildings and Building Regulations: General | Chapter 1 |
| Title III- Adminnistration: Town Officials: Building Inspector | Section 31.15 | Title 3 - Buildings and Building Regulations: Inspections Department | Chapter 2 |
| Building Code | Chapter 150 | Title 3 - Buildings and Building Regulations: Building Codes | Chapter 3 |

| EXISTING ORDINANCES | SECTION NUMBER | PROPOSED ORDINANCE | CHAPTER NUMBER |
|---|---|---|---|
| Title XV - Land Usage | Sections 150.20 - 150.26 | Title 3 - Buildings and Building Regulations: Permits | Chapter 4 |
| Title XV - Land Usage | Sections 150.35- 150.39 | Title 3 - Buildings and Building Regulations: Unsafe Buildings | Chapter 5 |
| Title XV - Land Usage | Sections 150.65 - 150.99 | Title 3 - Buildings and Building Regulation: Abandoned Buildings | Chapter 6 |
| Energy Conservation Standards | Chapter 151 | Title 3 - Buildings and Building Regulations: Regulations to License and Permit Installers of Energy Conservation Materials and Equipment | Chapter 7 |
| Flood Plain Management | Chapter 152 | Title 3 -Building and Building Regulations:Flood Plain Management | Chapter 8 |
| Minimum Housing Code | Chapter 153 | Title 7 - Housing: Minimum Standards | Chapter 2 |
| Soil, Erosion and Sedimnetation Control | Chapter 154 | Title 3 - Buildings and Building Regulations: Soil and Erosion Control | Chapter 9 |
| Subdivision Control | Chapter 155 | REMAINS AS IS | n/a |
| Zoning Adoption by Reference | Chapter 156 | Title 11 - Planning and Zoning: General | Chapter 1 |
| Zoning Adoption by Reference | | Title 11 - Planning and Zoning: Official Zoning Map and Districts | Chapter 2 |
| Zoning Adoption by Reference | | Title 11 - Planning and Zoning: Application and Enforcement | Chapter 3 |
| Zoning Adoption by Reference | | Title 11 - Planning and Zoning: Nonconforming Uses | Chapter 4 |
| Zoning Adoption by Reference | | Title 11 - Planning and Zoning: Vested Rights | Chapter 5 |
| Zoning Adoption by Reference | | Title 11 - Planning and Zoning: District Regulations | Chapter 6 |
| Zoning Adoption by Reference | | Title 11 - Planning and Zoning: Sign Regulations | Chapter 7 |
| Zoning Adoption by Reference | | Title 11 - Planning and Zoning: Off-Street Parking and Loading | Chapter 8 |
| Zoning Adoption by Reference | | Title 11 - Planning and Zoning: Manufactured Homes and Parks | Chapter 9 |

| EXISTING ORDINANCES | SECTION NUMBER | PROPOSED ORDINANCE | CHAPTER NUMBER |
|---|---|---|---|
| Zoning Adoption by Reference | | Title 11 - Planning and Zoning: Wireless Communication Facility Development | Chapter 10 |
| Zoning Adoption by Reference | | Title 11 - Planning and Zoning: Conditional Uses | Chapter 11 |
| Zoning Adoption by Reference | | Title 11 - Planning and Zoning: Solar Energy Facility | Chapter 12 |
| Zoning Adoption by Reference | | Title 11 - Planning and Zoning: Board of Adjustment | Chapter 13 |
| Title 3 - Administration: Departments, Boards and Commissions | Sections 32.20 - 32.25 | Title 11 - Planning and Zoning: Planning Board | Chapter 14 |
| Farmer's Market | Chapter 157 | Title 11 - Planning and Zoning: Farmer's Market | Chapter 15 |
| Zoning Adoption by Reference | Zoning Adoption by Reference | Title 11 - Planning and Zoning: Changes and Amendments | Chapter 16 |
| Zoning Adoption by Reference | Zoning Adoption by Reference | Title 11 - Planning and Zoning: Definitions | Chapter 17 |
| | | Title 4- General and Supplemental Regulations: Advertising | Chapter 1 |
| | | Title 4- General and Supplemental Regulations: Supplemental Regulations | Chapter 4 |
| By Resolution | | Title 5- General Offenses, Nuisances, and Miscellaneous Provisions: Abandoned and Junk Vehicles | Chapter 3 |
| | | Title 5- General Offenses, Nuisances, and Miscellaneous Provisions: Grafitti | Chapter 3 |
| | | Title 5- General Offenses, Nuisances, and Miscellaneous Provisions: Special Events - Permits | Chapter 3 |
| | | Title 5- General Offenses, Nuisances, and Miscellaneous Provisions: Posting of Signs for Concealed Carry | Chapter 3 |
| | | Title 6- Health and Sanitation: General Provisions | Chapter 1 |
| | | Title 6- Health and Sanitation: Mosquito Control | Chapter 2 |
| | | Title 6- Health and Sanitation: Rodent Control | Chapter 3 |

| EXISTING ORDINANCES | SECTION NUMBER | PROPOSED ORDINANCE | CHAPTER NUMBER |
|---|---|---|---|
| Available But Not Codified | | Title 7 - Housing: Fair Housing | Chapter 3 |
| Traffic Code | Sections 71.20 - 71.23 | Title 8- Motor Vehicles and Traffic Code: Speed Regulations | Chapter 4 |
| | | Title 8- Motor Vehicles and Traffic Code: Pedestrians | Chapter 5 |
| | | Title 8- Motor Vehicles and Traffic Code: Bicycles | Chapter 6 |
| | | Title 8- Motor Vehicles and Traffic Code: Railroads | Chapter 7 |
| | | Title 9 - Occupational Licenses, Taxes and Regulation: Ad Valorem Tax | Chapter 2 |
| Title III - Administration: Departments, Boards and Commissions | Sections 32.50 - 32.57 | Title 10 - Parks and Recreation: Recreation Commission | Chapter 1 |
| | | Title 10 - Parks and Recreation: General Provisions | Chapter 2 |
| | | Title 12 - Public Records: General Provisions | Chapter 1 |
| Title III - Administration: Departments, Boards and Commissions | Section 31.17 - Chief of Police; also Sections 32.35 - 32.46 | Title 13- Public Safety : Police Protection | Chapter 1 |
| Title III - Administration: Departments, Boards and Commissions | Sections 32.01 -32.12 | Title 13- Public Safety : Police Protection | Chapter 2 |

Notes:

Title Heading from Existing Ordinances - these were in odd numbers only; no even numbered titles.

This color significaies that the code section did not exist and is new.

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