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# **BRYSON CITY, NORTH CAROLINA**

## **CODE OF ORDINANCES**

AMERICAN LEGAL PUBLISHING CORPORATION

432 Walnut Street Cincinnati, Ohio 45202-3909 (800) 445-5588

AN ORDINANCE ENACTING A CODE OF ORDINANCES  
FOR THE TOWN OF BRYSON CITY,  
REVISING, AMENDING, RESTATING, CODIFYING AND COMPILING  
CERTAIN EXISTING GENERAL ORDINANCES OF THE TOWN OF  
BRYSON CITY DEALING WITH SUBJECTS EMBRACED IN SUCH  
CODE OF ORDINANCES, AND DECLARING AN EMERGENCY.

WHEREAS, the present general and permanent ordinances of the Town of Bryson City are inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs; and,

WHEREAS, the acts of the General Assembly of the State of North Carolina empower and authorize the Town of Bryson City to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and,

WHEREAS, the Board of Aldermen of the Town of Bryson City has authorized a general compilation, revision and codification of the ordinances of the Town of Bryson City of a general and permanent nature and publication of such ordinance in book form; and,

WHEREAS, it is necessary to provide for the usual daily operation of the Town of Bryson City and for the immediate preservation of the public peace, health, safety and general welfare of said municipality that this ordinance take effect at an early date.

NOW, THEREFORE, be it ordained by the Board of Aldermen of the Town of Bryson City:

Section 1. The general ordinances of the Town of Bryson City as revised, amended, restated, codified and compiled in book form under date of 2002 are hereby adopted as and shall constitute the "Code of Ordinances of the Town of Bryson City."

Section 2. Such Code of Ordinances as adopted in Section 1 shall consist of the following titles:

TITLES I, III, V, VII, IX, XI, XIII & XV


Section 3. All prior ordinances pertaining to the subjects treated in such Code of Ordinances shall be deemed repealed from and after the effective date of this ordinance except as they are included and re-ordained in whole or in part in such Code; provided, such repeal shall not effect any offense committed or penalty incurred or any right established prior to the effective date of this ordinance, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory, establishing franchises, or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or personal property, granting or accepting easements, plat or dedication of land to public use, vacating or setting the boundaries of streets or other public places; nor shall such repeal effect any other ordinance of a temporary or special nature or pertaining to subjects not contained in or covered by the Code.

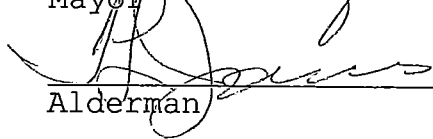
Section 4. Such Code shall be deemed published as of the day of its adoption and approval by the Board of Aldermen and the Clerk of the Town of Bryson City is hereby authorized and ordered to file a copy of such code of ordinances in the office of the clerk.

Section 5. Such Code shall be in full force and effect as provided in Section 6, and such Code shall be presumptive evidence in all Courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded and approved and that any public hearings and notices thereof as required by law have been given.

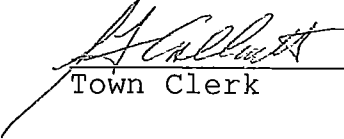
Section 6. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the peace, health, safety and general welfare of this municipality and shall take effect at the earliest date provided by law.

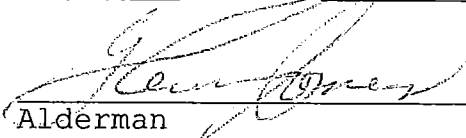
PASSED AND ADOPTED by unanimous vote of the Board of Aldermen of the Town of Bryson City on this the 7<sup>th</sup> day of OCTOBER, 2002.

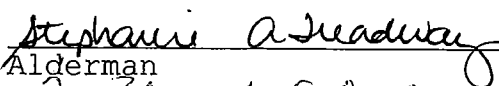
  
\_\_\_\_\_  
Mayor

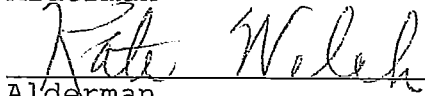
  
\_\_\_\_\_  
Alderman

Attest:

  
\_\_\_\_\_  
Town Clerk

  
\_\_\_\_\_  
Alderman

  
\_\_\_\_\_  
Alderman

  
\_\_\_\_\_  
Alderman

M:\town of BC.ordinance

## **PUBLISHERS'S ACKNOWLEDGMENT**

In the publication of this Code of Ordinances, every effort was made to provide easy access to local law by municipal officials, the citizens of this municipality, and members of the business community.

We want to express our grateful appreciation to all municipal officials for their untiring efforts in the preparation of this Code of Ordinances.

### **AMERICAN LEGAL PUBLISHING CORPORATION**

Stephen G. Wolf, Esq.  
President

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**130. GENERAL OFFENSES**

**Bryson City - General Offenses**

## CHAPTER 130: GENERAL OFFENSES

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- 130.09 Indecent exposure
- 130.10 Impersonating town officers
- 130.11 Failure to aid police officers
- 130.12 Obstruction of public ways prohibited

### *Cross-reference:*

*Drinking in public places, see § 112.03*

### § 130.01 WEAPONS.

(A) No person shall shoot or discharge, within the corporate limits of the town any firearms, guns, rifles, pistols, air rifles, spring guns, or compressed air rifle or pistol, or other similar device or weapon which impels or discharges with force any bullet, shot, or pellet of any kind, provided, however, that this section shall not apply to any law enforcement officer of any governmental unit, or representative of any governmental agency or body, charged with the duties of protecting life or property, or enforcing laws and regulations while engaged in the performance of his official duty. It is further provided that this section shall not apply in defending one's self or property, or the safety and property of others, and provided further, that this section shall not apply to a firing range operated or supervised by an individual, club, or organization for educational or sporting purposes, if the firing range shall have been first inspected and approved by the Police Department.

**Bryson City - General Offenses**

(B) The Chief of Police, or any member of the Police Department, is hereby authorized to seize, hold, and confiscate, subject to order of the court, any such firearm, weapon, air rifle, or similar device mentioned in division (A) above, which shall be shot, or discharged within the town in violation of this section.

(`92 Code, § 84.01) (Ord. 105, passed 10-19-70) Penalty, see § 10.99

**§ 130.02 INJURING TOWN PROPERTY.**

It shall be unlawful to injure, damage, deface, trespass upon, break, or injure any property belonging to the town.

(`92 Code, § 84.03) Penalty, see § 10.99

**§ 130.03 DAMAGING POLICE PROPERTY.**

It shall be unlawful for any person to willfully take, damage or in any way interfere or tamper with Police Department vehicles and equipment or any other property belonging to or used by the Police Department.

(`92 Code, § 23.25) Penalty, see § 10.99

**§ 130.04 LITTERING.**

(A) *Littering prohibited.* It shall be unlawful for any person to throw or deposit on any street or sidewalk, or at any place along the banks of the Tuckasegee River within the town limits, or on any private property except with written permission of the owner or occupant of the private property, any trash, refuse, garbage, building material, cans, bottles, broken glass, paper, or any type of litter. (`92 Code, § 82.01)

(B) *Littering from vehicles.* It shall be unlawful for any person while a driver or a passenger in a vehicle to throw or deposit litter on any street or other public place within the town, or at any place along the banks of the Tuckasegee River within the town limits, or on private property. (`92 Code, § 82.02)

(C) *Maintenance of public areas.* Every owner, lessee, tenant, occupant, or other person in charge of any commercial establishment or premises which maintains any paved or unpaved areas for the use of the public, either for parking or as access areas and incident to the carrying on of the principal business of any commercial establishment or premises and which parking or access areas abut or lie within ten feet of any public street or other public way, shall keep and maintain the areas clean and free from trash, litter, rubbish, and any materials liable to be blown, deposited, or cast on the street or other public way. (`92 Code, § 82.03)

(D) *Receptacles.* Suitable receptacles may be provided in parking or access areas within the meaning of division (C) of this section. The receptacles shall be plainly marked and constructed to prevent scattering of any trash, litter, rubbish, or other materials deposited therein. ('92 Code, § 82.04)

(E) *Property bordering running streams to be kept clean.* All persons owning property on either side of any running stream shall keep said stream free from any obstruction whatsoever, and any owner allowing any obstruction to remain, or any person throwing or placing any obstruction into running streams shall be guilty of a misdemeanor. ('92 Code, § 82.05)  
Penalty, see § 10.99

**§ 130.05 OFFENSES AGAINST THE PUBLIC PEACE.**

It is intended by this section to prohibit the commission of, and to provide punishment pursuant to § 10.99 of this code, for the following specific acts:

- (A) Disturbing the peace;
- (B) Resisting arrest, and resisting any officer of the town in the lawful performance of his duties;
- (C) Assembling for purposes of gambling;
- (D) Committing a breach of the peace;
- (E) Violent or boisterous conduct calculated to disturb the peace and quiet of other persons;
- (F) Making unusual or unnecessary noises calculated to disturb the peace and good order;
- (G) Committing riotous acts;
- (H) Maliciously interfering with pedestrians or traffic;
- (I) Indecent acts in the presence of others.  
( '92 Code, § 84.08) Penalty, see § 10.99

**§ 130.06 UNNECESSARY NOISE.**

(A) It shall be unlawful for any person to create, or assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing, and unnecessary noise in the town. Noise of such character, intensity, and duration as to be detrimental to the life or health of any individual is prohibited.

**Bryson City - General Offenses**

(B) The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but the enumeration shall not be deemed to be exclusive, namely:

(1) The sounding of any horn or signal device or any device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time;

(2) The use of any gong or siren upon any vehicle, other than police, fire, or other emergency vehicle;

(3) The use or operation of any piano, manual or automatic, phonograph, radio, loudspeaker, or any other instrument, or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in such a manner as renders the same a public nuisance, however, on application to the Mayor, permits may be granted to responsible organizations to produce programs in music, speeches, or general entertainment;

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

(5) The use of any automobile, motorcycle, or other vehicle so out of repair or so loaded in such manner as to create loud or unnecessary grating, grinding, rattling, or other noise;

(6) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger;

(7) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;

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

(9) The erection (including excavating), demolition, alteration, or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Building Inspector, which permit may be renewed for a period of three days or less while the emergency continues;

(10) The creation of any excessive noise on any street adjacent to any school, institution of learning, or court while the same are in session, or within 150 feet of any hospital, which unreasonably interferes with the working of such institution, provided conspicuous signs are displayed in such streets indicating that the same is a school, court, or hospital street;

(11) The creation of any excessive noise on Sundays on any street adjacent to any church, provided conspicuous signs are displayed in such streets adjacent to churches indicating that the same is a church street;

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

(13) The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof;

(14) The shouting and crying of peddlers, barkers, hawkers, and vendors which disturbs the quiet and peace of the neighborhood; or anyone shouting within the corporate limits so as to disturb the peace and quiet of the neighborhood;

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

(16) The use of any mechanical loudspeakers or amplifiers on trucks or other moving vehicles for advertising purposes or other purposes except where specific license is received from the Board of Commissioners; and

(17) The conducting, operating, or maintaining of any garage or filling station in any residential district, so as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.

(`92 Code, § 84.04) Penalty, see § 10.99

***Statutory reference:***

*Authority to regulate noises, see G.S. § 160A-184*

**§ 130.07 DISTURBING PUBLIC MEETINGS.**

It shall be unlawful to behave in a boisterous or indecent manner or to create any disturbance at or near any public entertainment or meeting.

(`92 Code, § 84.02) Penalty, see § 10.99

**§ 130.08 ABANDONED REFRIGERATORS.**

It shall be unlawful for any person to place, keep, leave or maintain in any location accessible to children, any abandoned, unused or discarded iceboxes, refrigerators or other containers having an airtight door and being equipped with a lock, clasp, or snaplock or other device securing the doors which, when so secured, may not be released or opened from the inside of such iceboxes, refrigerators or other containers. However, the provisions of this section shall not apply to any icebox, refrigerator or other container from which the door-securing device has been removed or rendered inoperative, nor shall the provisions hereof apply to any such icebox, refrigerator or other container which has been so secured by locking or chaining or otherwise as to prevent the opening thereof, or if opened, the closing thereof.

(`92 Code, § 84.05) Penalty, see § 10.99

**§ 130.09 INDECENT EXPOSURE.**

It shall be unlawful for any person to willfully expose his or her person or private parts in the presence of one or more persons of the opposite sex, or to take part in any immoral show, exhibition or performance where indecent, immoral or lewd dances or plays are conducted.

(`92 Code, § 84.06) Penalty, see § 10.99

**§ 130.10 IMPERSONATING TOWN OFFICERS.**

It shall be unlawful for any person to wear a badge or emblem purporting to signify his authority to otherwise purport to act as an officer of the town, unless he has been duly given such right by the proper town authorities.

(`92 Code, § 84.07) Penalty, see § 10.99

**§ 130.11 FAILURE TO AID POLICE OFFICERS.**

Any person who willfully neglects or refuses, after having been lawfully commanded so to do, to aid an officer in arresting any person, or in retaking any person who has escaped from legal custody, or in executing any legal process, shall be guilty of an offense.

(`92 Code, § 23.24) Penalty, see § 10.99



**§ 130.12 OBSTRUCTION OF PUBLIC WAYS PROHIBITED.**

It shall be unlawful for any person in any manner to obstruct the streets, sidewalks, crossings, or any other public way within the town limits.  
(`92 Code, § 84.09) Penalty, see § 10.99

**Bryson City - General Offenses**

§ 130.13 REGULATION OF CERTAIN PUBLIC SOLICITATION AND BEGGING

(a) Definitions. *Beg, solicit or panhandle*: use of the spoken, written or printed word, or other acts as are conducted in the furtherance of the purpose of immediately collecting contributions for the use of one's self or others. As used in this Ordinance, the word "solicit", and its forms, includes begging and panhandling.

*Signaled intersections*: The intersections of all streets within the Town of Bryson City which are controlled by a lighted traffic control device or devices.

(b) Prohibited acts.

(1) It shall be unlawful for any person to beg, solicit or panhandle upon a public street at any signaled intersection within the Town of Bryson City:

a. After dark, which shall mean one-half hour after sunset until one-half hour before sunrise.

b. Without wearing a safety vest with reflective coloration.

c. Without wearing an identification tag reflecting the identification of the beneficiary of the solicited funds.

d. Without being over the age of 18 years.

e. Without having secured from the Chief of Police of the Town of Bryson City, or his designee, a solicitation permit. Such permit must include the name, address and telephone number of the organization or person to be benefitted by the solicited funds and verification that said organization or person is a tax exempt organization or person.

Further, there shall be only one solicitor in any one lane of travel at any one time at any such signaled intersection.

(2) Additional restrictions applicable to high traffic zones:

a. The signaled intersections at the intersections of Main Street and Everett Street, Main Street and Veteran's Boulevard and Highway 19 West (Main Street) and Slope Street within the Town of Bryson City, and that portion of said intersecting streets lying within one hundred yards of said intersections, are high traffic zones.

b. Prohibited acts. In addition to the restrictions set forth in section (b) (1) above, it shall be unlawful for any person to beg, solicit or panhandle within any high traffic zone.

ADOPTING ORDINANCE

WHEREAS, there has been an increase in the incidence of solicitation upon the streets of the Town of Bryson City; and,

WHEREAS, the main thoroughfares of the Town of Bryson City carry substantial traffic; and,

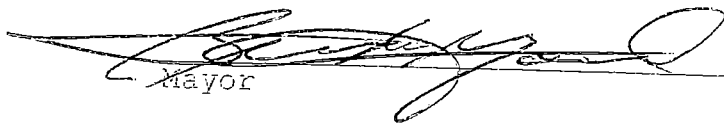
WHEREAS, questions have arisen as to whether certain of such on street solicitations are for the purposes for which they are advertised; and,


WHEREAS, the Board of Aldermen of the Town of Bryson City is concerned for the safety of the solicitors and the traveling public and as to the purpose of the solicitations.

NOW, THEREFORE, pursuant to the authority contained in NC Gen. Stat. §160A-79 and the general authority of the Town to regulate acts detrimental to the health, safety or welfare of its citizens, BE IT ORDAINED that the ordinance attached hereto be, and it is hereby, enacted and designated as §130.13 of the Code of Ordinances of the Town of Bryson City.

This Ordinance shall be effective immediately upon its adoption.

Unanimously adopted this the 1<sup>st</sup> day of November, 2004, 2004.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk to the Board of Aldermen

**TITLE XV: LAND USAGE**

**Chapter**

**150. BUILDING REGULATIONS**

**151. FLOOD DAMAGE PREVENTION**

**152. MANUFACTURED HOME PARKS**

**Bryson City - Land Usage**

## CHAPTER 30: MAYOR AND BOARD OF ALDERMEN

### Section

- 30.01 Governing body
- 30.02 Mayor
- 30.03 Mayor Pro Tem
- 30.04 Meetings

### § 30.01 GOVERNING BODY.

(A) The governing body of the town shall consist of a Mayor and Board of Aldermen of four members. The governing body shall be charged with the general government and administration of the affairs of the town. ('92 Code, § 20.01)

(B) The powers and duties of the governing body shall be as set out in the general statutes of the state, the town charter, and the ordinances of the town. ('92 Code, § 20.02)

***Statutory reference:***

*Board to organize town government, see G.S. § 160A-146*

### § 30.02 MAYOR.

The Mayor shall be the chief executive officer of the town, and as such, shall perform the following duties:

- (A) Keep him or herself informed as to the town's business;
- (B) Preside over the meetings of the Board of Aldermen;
- (C) Sign all contracts, ordinances, resolutions, franchises, and all other documents as authorized by the Board;
- (D) Appoint all committees and outline their duties, under the general direction of the Board;



**Bryson City - Administration**

(E) Make recommendations to the Board concerning the affairs of the town, as he or she deems necessary;

(F) Represent the town at ceremonies and other official occasions;

(G) Perform other duties as authorized by the general statutes, the town charter, and this code. (<sup>92</sup> Code, § 20.03)

**Statutory reference:**

*Duties of the Mayor, see G.S. § 160A-69*

**§ 30.03 MAYOR PRO TEM.**

At the first meeting after their election, the Board of Alderman shall select one of their number to act as Mayor Pro Tem. The Mayor Pro Tem shall have no fixed term of office, but as such, shall perform all the duties of the Mayor in the Mayor's absence or disability.

(<sup>92</sup> Code, § 20.04)

**Statutory reference:**

*Mayor Pro Tem, see G.S. § 160A-70*

**§ 30.04 MEETINGS.**

(A) *Regular meetings; time and place.* The regular meetings of the Board shall be held on the first Monday of each month at such time as may be designated from time to time by the Board, at the Town Hall, unless otherwise designated by the Board. If the first Monday of the month should fall on a holiday, the meeting shall be scheduled for the following Monday. (<sup>92</sup> Code, § 20.15)

(B) *Special meetings.* Special meetings of the Board may be held according to the procedures set out in the applicable general statutes. (<sup>92</sup> Code, § 20.16)

(C) *Adjourned meetings.* Any meeting of the Board may be continued or adjourned from day to day, or for more than one day. (<sup>92</sup> Code, § 20.17)

**Statutory reference:**

*Regular and special meetings; notice required, see G.S. § 160A-71*

*Quorum, see G.S. § 160A-74*

*Voting, see G.S. § 160A-75*

## CHAPTER 31: OFFICERS AND EMPLOYEES

### Section

- 31.01 Clerk
- 31.02 Town Attorney
- 31.03 Tax Collector
- 31.04 Other officers and employees

### § 31.01 CLERK.

The Board shall appoint a Clerk. It shall be the duty of the Clerk to:

- (A) Act as secretary to the Board;
- (B) Keep a true record of all the proceedings of the Board;
- (C) Keep the original of all ordinances in a book especially provided for that purpose;
- (D) Act as custodian for all the books, papers, records, and journals of the Board;
- (E) Perform other duties as may be required by law or by the Board;
- (F) Perform the duties of the Town Treasurer; and
- (G) Perform the duties of the Finance Officer, as set forth in G.S. § 159-25.

(`92 Code, § 21.01)

#### **Statutory reference:**

*Duties of the Clerk specified, see G.S. § 160A-171*

*Minutes to be kept, see G.S. § 160A-72*

**§ 31.02 TOWN ATTORNEY.**

The Board shall appoint a Town Attorney whose duties shall be to:

(A) Prosecute or defend any and all suits or actions at law or equity to which the town may be a party, or in which it may be interested, or which may be brought against, or by, any officer of the town, or in the capacity of the person as an officer of the town;

(B) See to the full enforcement of all judgments or decrees rendered or entered in favor of the town;

(C) See to the completion of all special assessment proceedings and condemnation proceedings;

(D) Draft or review any contract, lease, or other document or instrument to which the town may be a party, and approve all ordinances and resolutions of the Board as to form;

(E) At the request of the Board, draft ordinances covering any subjects within the power of the town;

(F) Attend meetings of the Board on request; and

(G) Perform any other duties required of the attorney by G.S. § 160A-173 and other laws and ordinances.

(`92 Code, § 21.02)

***Statutory reference:***

*Duties of the Town Attorney, see G.S. § 160A-173*

**§ 31.03 TAX COLLECTOR.**

The Board shall provide for the appointment of a Tax Collector, whose duties shall be to:

(A) Collect all taxes and assessments due to the town;

(B) Make an accounting to the Finance Officer at the end of each month;

(C) Pay over to the Finance Officer such money as is collected for the account of each separate fund according to the tax levy;

(D) Deliver a list of all unpaid taxes with the reason therefor as ascertainable to the Board of Aldermen;

(E) Supply the Mayor and Board with any information as they may require relative to the performance of his duties;

(F) Make periodic reports to the Board listing therein all funds collected;

(G) Perform other duties required by law, or as the Board may direct.

(`92 Code, § 21.03)

***Cross-reference:***

*Clerk performs duties of Finance Officer, see § 31.01(G)*

***Statutory reference:***

*Duties of Tax Collector, see G.S. §§ 105-349 and 105-350*

**§ 31.04 OTHER OFFICERS AND EMPLOYEES.**

Such other officers and employees as are deemed necessary shall be appointed by the Board at the first meeting after each election. All officers and employees shall serve at the pleasure of the Board and receive such compensation as from time to time may be prescribed by the Board.

(`92 Code, § 21.04)



## CHAPTER 32: DEPARTMENTS AND BOARDS

### Section

#### *Establishment of Departments*

- 32.01 Administration Department
- 32.02 Public Works Department
- 32.03 Taxation Department
- 32.04 Wastewater Treatment Department
- 32.05 Volunteer Fire Department

#### *Planning Board*

- 32.20 Creation
- 32.21 Composition and vacancies
- 32.22 Organization, rules, meetings and records
- 32.23 Expenditures
- 32.24 Powers and duties

#### *Police Department*

- 32.40 Composition; Chief
- 32.41 Special police
- 32.42 Duties; supervision
- 32.43 Work schedule; accident reports; training

#### ***Cross-reference:***

*Damaging police property, see § 130.03*

*Failure to aid police officer, see § 130.11*

***ESTABLISHMENT OF DEPARTMENTS*****§ 32.01 ADMINISTRATION DEPARTMENT.**

The Administration Department, under the direction and authority of the Town Clerk, is hereby established. This Department is responsible for the daily operation of all phases of town government, as directed by the Mayor and Board of Aldermen under state guidelines.

(`92 Code, § 23.01)

**§ 32.02 PUBLIC WORKS DEPARTMENT.**

The Public Works Department, under the direction and authority of the Director of Public Works, is hereby established. This Department shall work with and supervise street operations, sanitation, and water and sewer facilities.

(`92 Code, § 23.02)

**§ 32.03 TAXATION DEPARTMENT.**

The Taxation Department, under the direction and authority of the Tax Collector, is hereby established. This Department is responsible for town tax billing and collection pursuant to state guidelines, and shall assist the Town Clerk/Finance Officer.

(`92 Code, § 23.03)

**§ 32.04 WASTEWATER TREATMENT DEPARTMENT.**

The Wastewater Treatment Department, under the direction and authority of the Wastewater Treatment Director, is hereby established. This Department shall maintain and operate the wastewater treatment plant and pump stations.

(`92 Code, § 23.04)

**Section 32.05 of the Code of Ordinances, Town of Bryson City, North Carolina, is hereby amended as follows:**

**§32.05 VOLUNTEER FIRE DEPARTMENT**

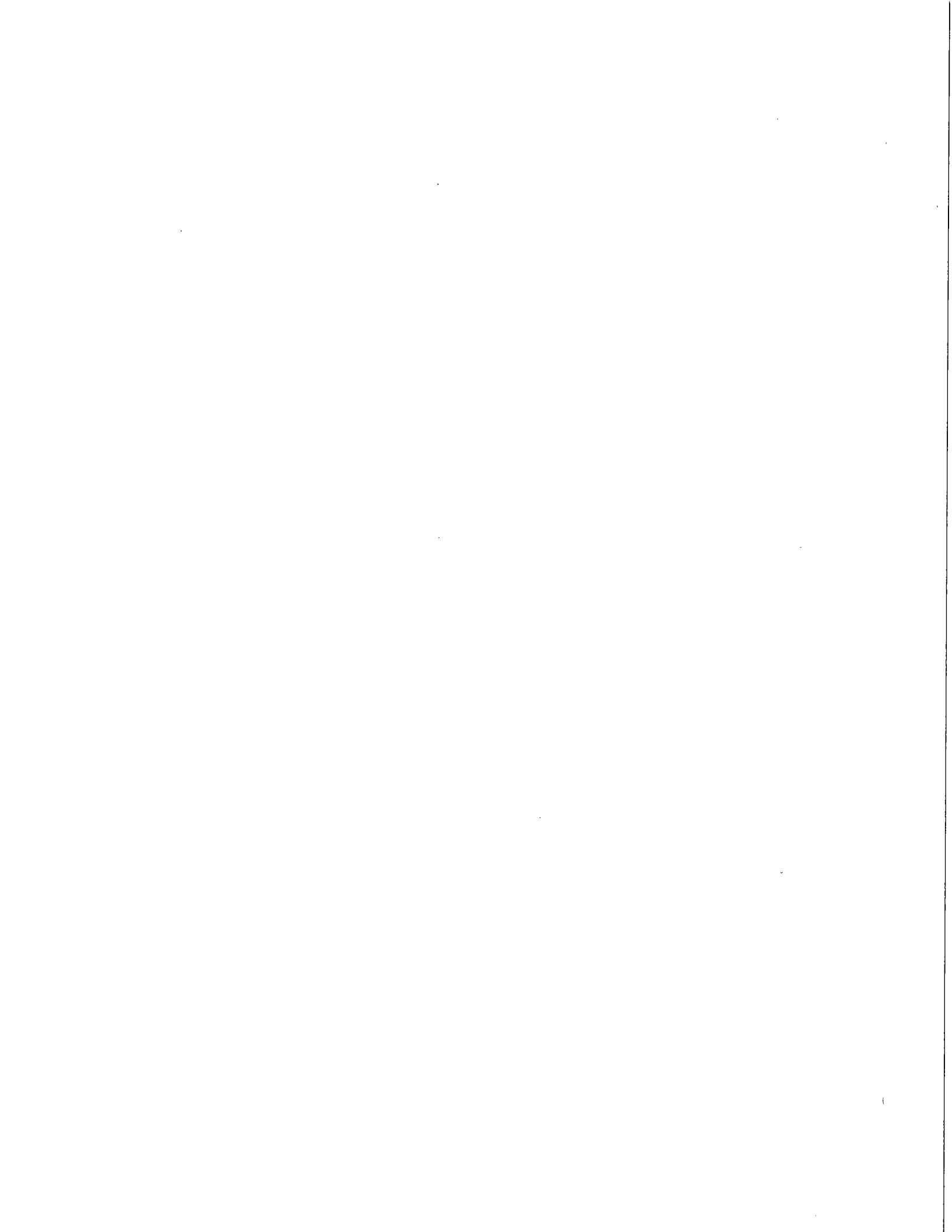
The Bryson City Volunteer Fire Department is hereby established. This Department, under the direction and authority of the Fire Chief, shall be responsible for fire protection of the town as set forth in G.S. § 160A-293, and shall perform all other duties established by the Mayor and the Board of Aldermen.

This Department shall be governed by bylaws adopted by the volunteer firemen and approved by the Board of Aldermen. The Fire Chief shall be elected by the volunteer firemen, subject, however, to ratification and confirmation by the Board of Aldermen.

The foregoing amendment to §32.05 of the Code of Ordinances, Town of Bryson City, North Carolina, was adopted unanimously at the regular meeting of the Board of Aldermen on October 4, 2010.

Valerie Lynn Thomas  
Town Clerk





**§ 32.05 VOLUNTEER FIRE DEPARTMENT.**

The Bryson City Volunteer Fire Department, under the direction and authority of the Fire Chief, is hereby established. This Department shall be responsible for fire protection of the town as set forth in G.S. § 160A-293, and shall perform all other duties established by the Mayor and Board of Aldermen.

(`92 Code, § 23.05)

***PLANNING BOARD***

**§ 32.20 CREATION.**

The Board of Aldermen hereby establishes the Planning Board under the authority granted by G.S. Ch. 160A-361.

(Ord. passed 4-3-00)

**§ 32.21 COMPOSITION AND VACANCIES.**

(A) The Planning Board hereinafter referred to as the "Board" shall consist of five members. The initial appointments to the Planning Board shall be made in the following manner: two members shall be appointed for a term of three years; two members shall be appointed for a term of two years, and one member shall be appointed for a term of one year. As the terms of all members expire, members may be reappointed or new members appointed by the Board of Aldermen to terms of three years.

(B) In the event of a vacancy on the Planning Board, the Board of Aldermen shall appoint a new member to fill the unexpired term of the vacated position.

(C) All members of the Board shall be equal rights, privileges and duties. Members shall serve without pay, but may be reimbursed for any expenses incurred while representing the Board. Regular attendance of the meetings of the Board is considered a prerequisite for maintenance and membership on the Board. If a member is absent from more than three consecutive meetings, the member may be replaced at the discretion of the Board of Aldermen.

(Ord. passed 4-3-00)

**§ 32.22 ORGANIZATION, RULES, MEETINGS AND RECORDS.**

(A) The Board shall meet and elect a chairman and vice chairman from among its regular members, both of whom shall serve for terms of one year or until reelected or until their successors are elected. The Board shall appoint a secretary who shall hold office during the term of the chairman and/or until a successor secretary shall have been appointed. The Board may create and fill other offices as it may determine.

(B) The Board shall adopt rules for the transaction of its business which are consistent with this subchapter as well as the General Statutes of the State of North Carolina, 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 schedule at least four meetings per year and all of its meetings shall be open to the public. There shall be a quorum of three Board members for the purpose of taking any official action required by this subchapter.

(Ord. passed 4-3-00)

**§ 32.23 EXPENDITURES.**

The expenditures of the Planning Board exclusive of gifts or grants, shall be within the amounts appropriated for the purpose by the Board of Aldermen, and no indebtedness for which the town shall be liable shall be contracted or incurred by the Planning Board unless an appropriation is made by the Board of Aldermen for such purpose, as authorized by law, and then only to the extent of such appropriation. The Planning Board shall have the right to accept gifts and donations for the exercise of its functions, and may expend the money received from such gifts and donations in a manner which in the judgment of the Board is consistent with the best interest of the planning program.

(Ord. passed 4-3-00)

**§ 32.24 POWERS AND DUTIES.**

The Planning Board shall have the power to perform the following duties:

- (A) Make studies of the area within its jurisdiction and surrounding areas;
- (B) Determine objectives to be sought in the development of the study area;
- (C) Prepare and adopt plans for achieving these objectives;

(D) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

(E) Advise the Board of Aldermen concerning the use and amendment of the means for carrying out plans;

(F) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Board of Aldermen may direct;

(G) Work and coordinate with other boards and advisory groups as directed by the Board of Aldermen;

(H) Perform any other related duties that the Board of Aldermen may direct.  
(Ord. passed 4-3-00)

***Cross-reference:***

*Planning Board to enforce tree regulations, see § 95.35*

***POLICE DEPARTMENT***

**§ 32.40 COMPOSITION; CHIEF.**

(A) The Police Department shall consist of such numbers of police officers as the Board of Aldermen shall from time to time determine to be necessary. ('92 Code, § 23.16)

(B) The Board of Aldermen shall at such time as they deem proper elect a Chief of Police for the town to serve for such time as the Board may decide upon, and to receive such salary as the Board may prescribe. The Board may also elect such other police officers or assistants as it may deem proper, to serve for such time and receive such compensation as the Board may prescribe. ('92 Code, § 23.17)

**§ 32.41 SPECIAL POLICE.**

The Mayor of the town may appoint such special police from day to day as may be necessary to serve on special occasions. Such special police shall receive such compensation for services rendered as the Board of Aldermen may agree to allow.

('92 Code, § 23.18)

***Statutory reference:***

*Authority to provide for auxiliary police, G.S. § 160A-282*

**§ 32.42 DUTIES; SUPERVISION.**

(A) It shall be the duty of the Chief of Police and other police officers or assistants to be diligent in the enforcement of good order in the town, to enforce all rules, regulations and ordinances prescribed or enacted by the Board of Aldermen of the town, and to do all acts required of public officers in the enforcement of law and good order. ('92 Code, § 23.20)

(B) The Police Department shall be directly under the supervision of the Mayor. ('92 Code, § 23.19)

***Statutory reference:***

*Extraterritorial jurisdiction, G.S. § 160A-286*

*Powers and duties, G.S. § 160A-285*

**§ 32.43 WORK SCHEDULE; ACCIDENT REPORTS; TRAINING.**

(A) *Work schedule.* Members of the Police Department shall work as scheduled and approved by the Mayor. ('92 Code, § 23.21)

(B) *Accident reports.* All accident reports made by the Police Department shall be kept on file in the Town Hall, with one copy in the police files in the Police Department, and one copy sent to Raleigh. ('92 Code, § 23.22)

(C) *Police school and training.* Members of the Police Department shall attend the police school held at Southwestern Technical College or such other place as may be approved by the Town Clerk and Mayor. ('92 Code, § 23.23)

***Statutory reference:***

*Training and development, see G.S. § 160A-289*

## CHAPTER 33: CIVIL EMERGENCIES

### Section

- 33.01 State of emergency authorized
- 33.02 Proclamation imposing prohibitions and restrictions
- 33.03 Evacuation
- 33.04 Curfew
- 33.05 Restrictions on alcoholic beverages
- 33.06 Restrictions on dangerous weapons and substances
- 33.07 Restrictions on access to areas
- 33.08 Termination of emergency; amendment or termination of proclamation
- 33.09 Absence or disability of Mayor
- 33.10 Territorial applicability
  
- 33.99 Penalty

### § 33.01 STATE OF EMERGENCY AUTHORIZED.

(A) A state of emergency shall be deemed to exist whenever during times of public crisis, disaster, rioting, catastrophe, or similar circumstances public authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.

(B) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the town or any part thereof, or threatening damages to or destruction of property, the Mayor is hereby authorized and empowered under G.S. §§ 14-288.12 and 166A-8 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 hereinafter authorized.

(C) 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 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, fire fighters 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 people within the town.

(Ord. passed 12-6-94)

### **§ 33.02 PROCLAMATION IMPOSING PROHIBITIONS AND RESTRICTIONS.**

(A) The Mayor by proclamation may impose the prohibitions and restrictions specified in division (C) of this section and §§ 33.03 through 33.07 of this chapter in the manner described in those sections. The Mayor may impose as many of those specified prohibitions and restrictions as he or she finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The Mayor shall recite his findings in the proclamation.

(B) The proclamation shall be in writing. The Mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the town hall. The Mayor shall send reports of the substance of the proclamation to the mass communications media which serves the affected area. The Mayor shall retain a text of the proclamation and furnish upon request certified copies of it.

(C) The proclamation may prohibit or restrict:

(1) Movements of people in public places;

(2) The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate; and

(3) Other activities or conditions the control of which may be reasonable necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.

(Ord. passed 12-6-94) Penalty, see § 33.99

**§ 33.03 EVACUATION.**

The Mayor may direct and compel the evacuation of all or part of the population of the town, to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress of a disaster area, the movement of persons within the area, and the occupancy of premises therein. Details of the evacuation may be set forth or amended in a subsequent proclamation which shall be well publicized.

(Ord. passed 12-6-94)

**§ 33.04 CURFEW.**

(A) The proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area or areas and the period during each 24-hour day to which the curfew applies. The Mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the Mayor finds necessary to the public. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(B) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the Mayor by proclamation removes the curfew.

(Ord. passed 12-6-94)

**§ 33.05 RESTRICTIONS ON ALCOHOLIC BEVERAGES.**

The proclamation may prohibit the possession or consumption of any alcoholic beverage; including beer, wine, and spirituous liquor other than on one's own premises, and may prohibit the transfer, transportation, sale or purchases of any alcoholic beverage within the area of the town described in the proclamation. The prohibition, if imposed, may apply to transfers of alcoholic beverages by employees of alcoholic beverage control stores as well as by anyone else within the geographical areas described.

(Ord. passed 12-6-94) Penalty, see§ 33.99

**§ 33.06 RESTRICTIONS ON DANGEROUS WEAPONS AND SUBSTANCES.**

(A) The proclamation may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance. The Mayor may exempt from some or all of the restrictions classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary to the preservation of the public's health, safety, or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.



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(B) For the purpose of this section, ***DANGEROUS WEAPON OR SUBSTANCE*** means:

(1) Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device as defined in G.S. § 14-288.8(C)(5), gasoline, or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property.

(2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so used.

(3) Any part or ingredient in any instrument or substance included above when the circumstances indicate a probability that such a part or ingredient will be so used.

(4) If imposed, the restrictions shall apply throughout the jurisdiction of the town or such part thereof as designated in the proclamation.

(C) A violation of this section shall be punishable as provided in G.S. § 14-288.7.  
(Ord. passed 12-6-94)

**§ 33.07 RESTRICTIONS ON ACCESS TO AREAS.**

(A) The proclamation may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this section, in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.

(B) Areas to which access is denied or restricted shall be designated by the Chief of Police and his subordinates or other law enforcement officers when directed in the proclamation to do so by the Mayor. When acting under this authority, the Chief of Police and his subordinates may restrict or deny access to any area, street, highway or location within the town limits if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.  
(Ord. passed 12-6-94) Penalty, see § 33.99

**§ 33.08 TERMINATION OF EMERGENCY; AMENDMENT OR TERMINATION OF PROCLAMATION.**

(A) *Removal of prohibitions and restrictions.* The Mayor shall be proclamation terminate the entire declaration of emergency or remove any of the prohibitions and restrictions when the emergency no longer requires them, or when directed to do so by the Board of Aldermen.

(B) *Superseding and amendatory proclamations.* The Mayor in his/her discretion may invoke the restrictions authorized by this chapter in separate proclamations, and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in § 33.02.

(C) *Termination of proclamation.* Any proclamation issued under this chapter shall expire five days after its last imposition unless sooner terminated in writing under the same procedures set forth in § 33.02 for proclamations.

(Ord. passed 12-6-94)

**§ 33.09 ABSENCE OR DISABILITY OF MAYOR.**

In case of the absence or disability of the Mayor, the Mayor Pro Tem for the town, or such other person as may be designated by the Board of Aldermen, shall have and exercise all of the powers herein given the Mayor.

(Ord. passed 12-6-94)

**§ 33.10 TERRITORIAL APPLICABILITY.**

This chapter shall apply within the corporate limits of the town wherein the Mayor and Board of Aldermen have the authority to enact police power ordinances.

(Ord. passed 12-6-94)

**§ 33.99 PENALTY.**

Except as provided in § 33.06, any person violating any prohibition or restriction imposed by a proclamation authorized by this chapter shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$50 or imprisonment not exceeding 30 days, as provided by G.S. § 14-4.

(Ord. passed 12-6-94)



## CHAPTER 34: FINANCIAL ADMINISTRATION

### Section

34.01 Procedure for disbursement

### § 34.01 PROCEDURE FOR DISBURSEMENT.

In accordance with the Local Government Budget and Fiscal Control Act, no bill or claim against the town may be paid unless it has been approved by the officer or employee responsible for the function or agency to which the expense is charged. No check or draft of the town nor any contract, agreement or purchase order shall be valid unless it bears the certificate of the Clerk as follows: "This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act."

***Statutory reference:***

*Pre-audit of disbursements required, see G.S. § 159-28*



## CHAPTER 50: GENERAL PROVISIONS

### Section

#### *Payment*

- 50.01 Crediting of partial payment for services

#### *Extensions*

- 50.15 Application for and approval of extensions required  
50.16 General extension requirements  
50.17 Financing extensions within corporate limits  
50.18 Financing extensions outside corporate limits  
50.19 Specifications, ownership  
50.20 Additional subdivision improvement requirement

#### *Cross-reference:*

*Late fee on water and sewer bills, see §§ 52.04, 53.26*

### **PAYMENT**

#### **§ 50.01 CREDITING OF PARTIAL PAYMENT FOR SERVICES.**

In the event the town receives a payment for various enterprise services covered by a bill for the services which said payment does not pay the bill in full, then the partial payment shall be applied among the various enterprise services covered by a bill as follows:

(A) To any past due bill for enterprise services, first for past due garbage collection fees, second for past due sewer charges and third for past due water charges;

(B) To current charges for enterprise services, first to current charges for garbage collection fees, second for current charges for sewer service fees and third for current charges for water service fees.  
(Ord. passed 7-7-97)

***EXTENSIONS*****§ 50.15 APPLICATION FOR AND APPROVAL OF EXTENSIONS REQUIRED.**

(A) From and after the effective date of this chapter, any property owner, or owners, desiring water or sanitary sewer service shall apply in writing to the town requesting the extension of water or sanitary sewer service or both. No request for the extension of services shall be considered unless submitted in writing in accordance with the requirements of this subchapter.

(B) The town may require the applicant to submit as part of the written application such information, plans or other data as may be required to adequately determine if the requirements of this subchapter are to be met.

(C) When application is made for water and sewer extensions to serve an area or development project that is planned as part of a larger project or subdivision, all of which is not to be developed at the time application is made, the owner or owners shall submit plans in sufficient detail in order to determine the size and type facilities which will be necessary to serve the entire development or subdivision when completed.

(D) No extension to the water or sanitary sewer system of the town shall be made and no application shall be approved except in accordance with the requirements of this subchapter.  
(`92 Code, § 53.01) (Ord. passed 8-29-69)

**§ 50.16 GENERAL EXTENSION REQUIREMENTS.**

All extensions of either water or sanitary sewer service shall be governed by the following:

(A) The minimum distance for any extension of a water main or sanitary sewer main shall be determined by the town. In general, the minimum distance for extensions shall be one platted block, or in the case of water mains from main line valve to valve and in the case of sanitary sewer extension from manhole to manhole.

(B) The size of water mains and sanitary sewer mains to be installed and the other required system facilities shall be determined by the town in accordance with the recognized standards and accepted engineering practices and design.  
(`92 Code, § 53.02) (Ord. passed 8-29-69)

**§ 50.17 FINANCING EXTENSIONS WITHIN CORPORATE LIMITS.***(A) Extensions to approved subdivisions or developed property.*

(1) When application is received requesting the extension of water or sanitary sewer service or both to serve property within the corporate limits which is developed or has been previously approved as a subdivision, or where streets have previously been dedicated and accepted by the town, and where such area is not part of a new subdivision which has not been approved by the town, the Town Clerk or other person designated by the Board of Aldermen shall estimate the cost of the project and present the application for such extension, the estimated cost and other required information to the Board of Aldermen for their consideration. If the application is approved by the Board of Aldermen and subject to the availability of funds, the town will install or have installed by contract under its supervision the extensions which have been approved, and such extension shall be financed in accordance with this division.

(2) When an approved water or sanitary sewer extension project has been completed and the total cost thereof has been determined, 75% of the total cost of such water or sanitary sewer extension or both shall be assessed against the property owners whose property abuts upon such extension at an equal rate per front foot in accordance with and under the authority granted to the town by state law. The remaining 25% of the total cost of such extensions shall be borne by the town from funds appropriated for this purpose.

(3) Any property owner or owners shall have the opportunity to pay his or their proportionate share of the cost of such extensions after the assessment roll is confirmed rather than paying his or their share in equal annual installments with interest as required by the statute.

*(B) Extensions to proposed developments or subdivisions.*

(1) When an application is received requesting the extension of water or sanitary sewer service or both to proposed developments or subdivisions within the corporate limits which have not been approved by the Board of Aldermen, the Town Clerk or other person designated by the Board of Aldermen shall estimate the cost of the project and present the application for such extension, the estimated cost and other required information to the Board of Aldermen for their consideration. If the application is approved and subject to the approval of the development or subdivision by the town, and subject to the availability of funds, the town will install or have installed by contract under its supervision such extensions which shall be financed in accordance with this section.

(2) Prior to the beginning of any construction, the property owner or owners shall advance to the town funds in an amount equal to 75% of the total estimated cost of the proposed extensions. Upon receipt of such funds, a written contract shall be entered into by and between the town and the property owner or owners, under which the town will use such funds upon the following terms and conditions:



**Bryson City - Public Works**

(a) The funds shall be deposited in a special account of the town for which a separate accounting will be made.

(b) At the time construction of the extension is completed and the total cost thereof is determined, if the amount deposited exceeds 75% of the total cost, that portion in excess of the amount deposited will be refunded to the owner or owners without interest. If the amount deposited is less than 75% of the total cost, the owner or owners shall pay such additional amount to the town and this condition shall be a part of the written contract.

(c) In lieu of depositing funds, the owner or owners may provide a surety bond or some other form of security that will insure payment to the town of the owner or owners proportionate share of the cost of extension in accordance with this chapter.

(d) No refund or reimbursement of funds shall be made to the owner or owners who pay 75% of the total cost of extension under the requirements of this division except as provided for in division (b) above.

(3) The town will finance from funds appropriated for this purpose the remaining 25% of the total cost of extension to and within such proposed developments or subdivisions.

*(C) Facilities excluded in determining owners share of cost.*

(1) When the town determines that it is advisable to install larger size facilities than are necessary to serve the property requesting such extension, the difference in the cost of the larger size facilities over and above the cost of the facilities required to serve the property requesting such extension shall be paid for by the town and excluded from the total cost to be shared by the property owner and the town as provided for herein.

(2) Fire hydrants, pumping stations, outfall lines and other facilities installed for general public use shall be paid for by the town and excluded from the total cost to be shared by the property owner and the town, as provided for herein.

*(D) Exceptions authorized.* Nothing in this subchapter shall prevent the Board of Aldermen from extending water or sanitary sewer mains or both within the corporate limits on their own motion without receipt of an application from property owners, and to assess the cost of such extensions in accordance with division (A) above when, in the opinion of the Board of Aldermen, the general public interest demands such extension of service.

(`92 Code, § 53.03) (Ord. passed 8-29-69)

**§ 50.18 FINANCING EXTENSIONS OUTSIDE CORPORATE LIMITS.**

(A) All applications for water and sewer extensions outside the corporate limits shall be made in the same manner and under the same requirements as provided for in §§ 50.15 and 50.16.

(B) If an application is approved by the Board of Aldermen the owner or owners shall be required to pay for the entire cost of all extensions. Provided, the town may participate to the extent agreed upon by the Board of Aldermen in the cost of larger size mains which are in excess of the size mains required to serve the project. No reimbursement shall be made upon annexation and all water and sewer lines connected to the town system and located outside the corporate limits shall become the property of the town at the time such facilities are connected.

(C) Prior to the beginning of any construction, the owner or owners shall deposit with the town funds in an amount equal to the total estimated cost of such extensions. Upon receipt of such funds a written contract shall be entered into by and between the town and the property owner or owners in accordance with the requirements of this chapter. Such contract shall provide that in the event the amount of the total funds deposited exceeds the amount of the total extension cost when completed, that portion in excess of the total cost will be refunded to the owner or owners without interest. Such contract shall also provide that if the amount deposited is less than the total cost, the owner or owners shall pay such additional amount to the town.

(D) In lieu of depositing funds the owner or owners may execute a surety bond guaranteeing payment for such extension or the owner or owners may have such extension performed under private contract with the approval of the Board of Aldermen, provided, the work is to be performed in accordance with all construction requirements of the town and subject to inspection and approval of the town.

(E) In the event the property for which application has been made for water or sewer service is contiguous to the corporate limits and the owner or owners of such property agree to annexation and in the event such property is annexed to the town, extensions may be made to such property and the cost thereof financed in accordance with the requirements of § 50.17(A) or (B), whichever is applicable.

(`92 Code, § 53.04) (Ord. passed 8-29-69)

**§ 50.19 SPECIFICATIONS, OWNERSHIP.**

Any water mains or sanitary sewer mains extended under the provisions of this subchapter shall be installed and constructed in accordance with the approved plans, specifications and other requirements of the town. All facilities installed under the provisions of this chapter, whether within or outside the corporate limits shall become the sole property of the town and under its jurisdiction and control for any and all purposes whatsoever at the time such facilities are connected to the town system. When required, the property owner or owners shall grant to the town such utility easements as the town may require. In addition, a deed to the town for water and/or sewer facilities installed which are located outside the corporate limits, the cost of which is borne by individual property owners, shall be executed prior to the time any extensions provided for in this chapter are connected to the town systems.  
(`92 Code, § 53.05) (Ord. passed 8-29-69)

**§ 50.20 ADDITIONAL SUBDIVISION IMPROVEMENT REQUIREMENT.**

The Board of Aldermen may in its discretion as a condition under which water or sewer service or both will be extended, require the owner or owners of a proposed subdivision to enter into an agreement to improve the proposed streets therein at their own expense and in accordance with the ordinances then in force governing the acceptance of public streets for the town. If required, this section shall apply to subdivisions which are located either within or outside the corporate limits of the town.  
(`92 Code, § 53.06) (Ord. passed 8-29-69)

## CHAPTER 51: SOLID WASTE

### Section

#### *Garbage and Refuse*

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#### **GARBAGE AND REFUSE**

##### **§ 51.01 DEFINITIONS.**

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

***BUILDING MATERIAL SCRAPS.*** Scrap building material from the construction, reconstruction, remodeling, or repair of a building, walkway, driveway, sign, and other structure, including but not limited to, excavated earth, tree stumps, rocks, gravel, bricks, plaster, concrete, lumber, or any other similar material used in construction or the containers or wrappings therefor.

***GARBAGE.*** All putrescible wastes, including animal and vegetable matter, animal offal and carcasses, and recognizable industrial byproducts but excluding sewage and human wastes.

***REFUSE.*** All nonputrescible wastes.

**SOLID WASTE.** Garbage, refuse, rubbish, trash, and other discarded solid materials, including **SOLID WASTE** materials resulting from homes, businesses, industrial, commercial, and agricultural operations, and from community activities, but does not include solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows or other common water pollutants.

**TREE TRIMMINGS.** Tree limbs, leaves, shrubbery, trimmings and cuttings and all other trimmings from the natural growth of trees, shrubbery, weeds, plants or grass. (Ord. passed 6-4-87) ('92 Code, § 41.01)

#### **§ 51.02 APPROVED CONTAINERS.**

It shall be unlawful for any person to throw, place, or deposit any garbage or refuse of any kind on any public or private property except in approved containers or as otherwise provided in this chapter. ('92 Code, § 41.02) Penalty, see § 10.99

#### **§ 51.03 BURNING OR BURYING GARBAGE.**

It shall be unlawful to burn or set fire to any garbage for the purpose of disposal. In addition, it shall be unlawful to bury any refuse for the purpose of disposal unless a permit therefor has been granted by the Fire Chief.

('92 Code, § 41.03) Penalty, see § 10.99

**Editor's Note:**

*Extensive state regulations are in effect with respect to the open burning of trash and refuse; see Dept. of Environmental Management; Regulations Governing the Control of Air Pollution*

#### **§ 51.04 ACCUMULATION OF GARBAGE AND REFUSE PROHIBITED.**

All garbage and refuse shall be collected and placed in containers as required by this chapter, and it shall be unlawful for any person to permit garbage or refuse to accumulate or remain on any premises longer than is reasonably necessary to remove and deposit same in approved containers as required herein.

('92 Code, § 41.04) Penalty, see § 10.99

**§ 51.05 CONTAINERS REQUIRED.**

The occupant of every building or premises where garbage and refuse does or may exist shall provide containers made of substantial galvanized iron, plastic, rubber, or other nonrusting material in which shall be deposited all garbage and refuse existing at such building or premises. Each container shall be provided with handles or bails and with a tight fitting cover made of the same material as the container. All containers shall be watertight and they shall be of a size that can be conveniently handled by the collectors, and no container shall be more than 30 gallons in capacity nor measure over 22 inches in diameter or 30 inches in height. All containers shall be kept in a reasonably clean condition.

(`92 Code, § 41.05) Penalty, see § 10.99

**§ 51.06 PRECOLLECTION PRACTICES.**

All garbage and refuse shall have the liquid drained therefrom and shall be wrapped in paper or other like material before it is placed in the container for collection. Ashes and cinders shall be placed in a separate container provided for that purpose and no ashes shall be deposited in any container until they are cold. Containers which fail to have a cover as required in § 51.05 or which have become rusted or broken and therefore are unable to contain garbage and refuse in a satisfactory manner shall not be used.

(`92 Code, § 41.06) Penalty, see § 10.99

**§ 51.07 COLLECTION SCHEDULE.**

Garbage and refuse will be collected by the town according to a collection schedule maintained in the Clerk's office. Such schedule may be periodically revised and amended by action of the Board.

(`92 Code, § 41.07)

**§ 51.08 UNLAWFUL TO DISPLACE CONTAINERS.**

It shall be unlawful for any person to damage, displace, or to otherwise interfere with garbage containers or their contents except the owner or on permission or at the request of the owner.

(`92 Code, § 41.08) Penalty, see § 10.99

**§ 51.09 SPECIAL OR BULK COLLECTIONS REGULATED.**

(A) No bulk trash or other refuse will be collected without special charge unless such refuse can be placed in regulation type garbage cans.

(B) Tree trimmings shall not be collected by the town. (Ord. passed 6-4-87)

(C) Any property owner desiring special bulk collections of loose matter not in closed containers or tied in bundles may request a special collection for which a special charge will be made. If sufficient manpower and equipment are available, town personnel are authorized to make such special collections, provided that person making the request agrees to pay for the labor and equipment used at the rate specified by the town.

(D) No collection shall be made from vacant lots nor shall any large rocks, tree trunks, tree stumps, tree limbs of more than six feet in length, or other heavy objects be collected by the town. No waste building materials or lot clearings shall be collected from houses or other structures under construction or recently completed.

(E) Material to be collected by special collections shall be placed in neat piles and so located that such refuse can be easily loaded on trucks for disposal.

(`92 Code, § 41.09) Penalty, see § 10.99

#### **§ 51.10 GARBAGE COLLECTION FEES; SUSPENSION OF SERVICE.**

(A) The charges, if any, for garbage collection shall be as established by the Board of Aldermen and, if so established, shall be due from each water consumer of the town. Any such charges for garbage collection shall be billed monthly with water and/or sewer charges.

(B) Bills for garbage collection service are due when rendered and are delinquent after 15 days. Delinquent notices will be mailed to the consumer and, if not paid within 15 days after the date of mailing, garbage collection services may be discontinued.

(Ord. passed 7-7-97)

## ***INDUSTRIAL USE REGULATIONS***

### **§ 52.40 PURPOSE AND POLICY.**

(A) This subchapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the town and enables the town to comply with all applicable state and federal laws required by the Clean Water Act of 1977, 33 USC 1251 *et seq.* and the general pretreatment regulations (40 CFR 403).

(B) The objectives of this subchapter are:

(1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;



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(2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(4) To provide for equitable distribution of the cost of the municipal wastewater system.

(C) This subchapter provides for the regulation of all 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 uses, authorized monitoring and enforcement activities, require user reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(D) This subchapter shall apply to the town and to persons outside the town who are, by contract or agreement with the town, users of the town POTW. This subchapter is a supplement to Chapter 51 as amended. Except as otherwise provided herein, the Superintendent of the town POTW shall administer, implement, and enforce the provisions of this subchapter.

(^92 Code, § 51.40) (Ord. 1-500, passed 1-7-85)

### § 52.41 DEFINITIONS.

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

Abbreviations. The following abbreviations shall have the designated meanings:

BOD	-	Biochemical Oxygen Demand.
CFR	-	Code of Federal Regulations.
COD	-	Chemical Oxygen Demand.
EPA	-	Environmental Protection Agency.
l	-	Liter.

mg	-	Milligrams.
mg/l	-	Milligrams per liter.
NPDES	-	National Pollutant Discharge Elimination System.
POTW	-	Publicly Owned Treatment Works.
SIC	-	Standard Industrial Classification.
SWDA	-	Solid Waste Disposal Act, 42 USC 6901 <i>et seq.</i>
USC	-	United States Code.
TSS	-	Total Suspended Solids.

**ACT** or **THE ACT**. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 *et seq.*

**APPROVAL AUTHORITY**. The Director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an approved State Pretreatment Program.

**AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER**. An authorized representative of an industrial user may be:

(1) A principal executive officer of at least the level of vice-president if the industrial user is a corporation;

(2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

**BIOCHEMICAL OXYGEN DEMAND (BOD)**. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20° C. expressed in terms of weight and concentration (milligrams per liter (mg/l)).

**BUILDING SEWER**. A sewer conveying wastewater from the premises of a user to the POTW.

**CATEGORICAL STANDARDS.** National Categorical Pretreatment Standards or Pretreatment Standard.

**CONTROL AUTHORITY.** The term control authority shall refer to the approval authority, defined hereinabove; or the Superintendent if the town has an approved pretreatment program under the provisions of 40 CFR 403.11.

**COOLING WATER.** The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

**DIRECT DISCHARGE.** The discharge of treated or untreated wastewater directly to the waters of the State of North Carolina.

**ENVIRONMENTAL PROTECTION AGENCY, or EPA.** The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of the agency.

**GRAB SAMPLE.** A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

**HOLDING TANK WASTE.** Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

**INDIRECT DISCHARGE.** The discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act, 33 USC 1317, into the POTW (including holding tank waste discharged into the system).

**INDUSTRIAL USER.** A source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to section 402, of the Act (33 USC 1342).

**INTERFERENCE.** The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the town's NPDES Permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 USC 6901 *et seq.*), the Clean Air Act (42 USC 7401 *et seq.*), the Toxic Substances Control Act (15 USC 2601 *et seq.*), 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.

**NATIONAL CATEGORICAL PRETREATMENT STANDARD OR PRETREATMENT STANDARD.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1347) which applies to a specific category of industrial users.

**NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM or NPDES PERMIT.** A permit issued pursuant to section 402 of the Act (33 USC 1342).

**NATIONAL PROHIBITIVE DISCHARGE STANDARD. OR PROHIBITIVE DISCHARGE STANDARD.** Any regulation developed under the authority of 307(b) of the Act (33 USC 1317) and 40 CFR 403.5.

**NEW SOURCE.** Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 USC 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

**pH.** The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

**POLLUTANT.** Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

**POLLUTION.** The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

**PRETREATMENT or TREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR 403.6(d).

**PRETREATMENT REQUIREMENTS.** Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

**PUBLICLY OWNED TREATMENT WORKS (POTW).** A treatment works as defined by section 212 of the Act (33 USC 1292) which is owned in this instance by the town. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this subchapter, 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, users of the town's POTW.

**POTW TREATMENT PLANT.** That portion of the POTW designed to provide treatment to wastewater.

**SIGNIFICANT INDUSTRIAL USER.** Any industrial user of the town's wastewater disposal system who has a discharge flow of 25,000 gallons or more per average work day, or has a flow greater than 5% of the flow in the town's wastewater treatment system, or has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act (42 USC 1317) of (State) Statutes, and rules or is found by the town, (State Control Agency) or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

**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, 1972.

**STORM WATER.** Any flow occurring during or following any storm of natural precipitation and resulting therefrom.

**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.

**SUPERINTENDENT.** The person designated by the town to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this subchapter, or his duly authorized representative.

**TOWN.** The town of Bryson City or the Board of Aldermen of the town.

**TOXIC POLLUTANT.** Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) (33 USC 1517) or other Acts.

**USER.** Any person who contributes, causes or permits contribution of wastewater into the town's POTW.

**WASTEWATER.** The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

**WASTEWATER CONTRIBUTION PERMIT.** As set forth in § 52.51.

**WATERS OF THE STATE.** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.  
(`92 Code, § 51.41) (Ord. 1-500, passed 1-7-85)

#### § 52.42 GENERAL DISCHARGE PROHIBITIONS.

(A) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements. A user may not contribute the following substances to any POTW:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. 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 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the town, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater-treatment facilities such as, but not limited to: grease, garbage with particles greater than ½-inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

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(3) Any wastewater having a pH less than 5.0, unless the POTW is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) (33 USC 1517) of the Act.

(5) Any noxious or malodorous liquids, gases, or solids 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.

(6) 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 non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act (33 USC 1345); any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act (42 USC 6901 *et seq.*), the Clean Air Act (42 USC 7401 *et seq.*), the Toxic Substances Control Act (15 USC 2601 *et seq.*), or state criteria applicable to the sludge management method being used.

(7) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.

(8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40°C (104°F) unless the POTW treatment plant is designed to accommodate such temperature.

(10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause Interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities, or flow during normal operation.

(11) Any wastewater containing any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.

(12) Any wastewater which causes a hazard to human life or creates a public nuisance.

(B) When the Superintendent determines that a user is contributing to the POTW, any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the Superintendent shall: advise the user of the impact of the contribution on the POTW, and develop effluent limitations for such user to correct the interference with the POTW.

(`92 Code, § 51.42) (Ord. 1-500, passed 1-7-85) Penalty, see § 52.99

#### **§ 52.43 FEDERAL CATEGORICAL PRETREATMENT STANDARDS.**

Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this subchapter for sources in that subcategory, shall immediately supersede the limitations imposed under this subchapter. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.

(`92 Code, § 51.43) (Ord. 1-500, passed 1-7-85)

#### **§ 52.44 MODIFICATION OF FEDERAL CATEGORICAL PRETREATMENT STANDARDS.**

Where the town's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in the federal pretreatment standards. Consistent removal shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system 95% of the samples taken when measured according to the procedures set forth in 40 CFR 403.7(c)(2) of - General Pretreatment Regulations for Existing and New Sources of Pollution promulgated pursuant to the Act. The town may then modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR 403.7, are fulfilled and prior approval from the approval authority is obtained.

(`92 Code, § 51.44) (Ord. 1-500, passed 1-7-85)



**§ 52.45 SPECIFIC POLLUTANT LIMITATIONS.**

No person shall discharge wastewater containing in excess of:

0.10 mg/l	arsenic
0.13 mg/l	cadmium
0.815 mg/l	copper
0.18 mg/l	cyanide
0.20 mg/l	lead
0.30 mg/l	mercury
0.942 mg/l	nickel
0.096 mg/l	silver
0.572 mg/l	total chromium
0.549g mg/l	zinc
_ mg/l	total identifiable chlorinated hydrocarbons
_ mg/l	phenolic compounds which cannot be removed by the town's wastewater treatment processes.

(`92 Code, § 51.45) (Ord. 1-500, passed 1-7-85) Penalty, see § 52.99

**§ 52.46 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 subchapter.

(`92 Code, § 51.46) (Ord. 1-500, passed 1-7-85)

**§ 52.47 TOWN'S RIGHT OF REVISION.**

The town reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 52.40.

(`92 Code, § 51.47) (Ord. 1-500, passed 1-7-85)

**§ 52.48 EXCESSIVE DISCHARGE.**

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 federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state. (Comment: Dilution may be an acceptable means of complying with some of the prohibitions set forth in § 52.42, such as the pH prohibition.)  
(`92 Code, § 51.48) (Ord. 1-500, passed 1-7-85)

**§ 52.49 ACCIDENTAL DISCHARGES.**

(A) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this subchapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, and shall be approved by the town before construction of the facility. All existing users shall complete such a plan by January 1, 1983. No user who commences contribution to the POTW after the effective date of this subchapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the town. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this subchapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(B) Within five days following an accidental discharge, the user shall submit to the Superintendent a detailed written report describing the cause 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, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this subchapter or other applicable law.

(C) A notice shall be permanently posted on the users bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(`92 Code, § 51.49) (Ord. 1-500, passed 1-7-85) Penalty, see § 52.99

**§ 52.50 FEES.**

(A) *Purpose.* It is the purpose of this subchapter to provide for the recovery of costs from users of the town's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the town's schedule of charges and fees.

(B) *Charges and fees.*

(1) The town may adopt charges and fees which may include:

(a) Fees for reimbursement of costs of setting up and operating the town's pretreatment program;

(b) Fees for monitoring, inspections and surveillance procedures;

(c) Fees for reviewing accidental discharge procedures and construction;

(d) Fees for permit applications;

(e) Fees for filing appeals;

(f) Fees for consistent removal by the town of pollutants otherwise subject to federal pretreatment standards;

(g) Other fees as the town may deem necessary to carry out the requirements contained herein.

(2) These fees relate solely to the matters covered by this subchapter and are separate from all other fees chargeable by the town.

(`92 Code, § 51.50) (Ord. 1-500, passed 1-7-85)

**§ 52.51 WASTEWATER DISCHARGE PERMIT.**

(A) *Wastewater dischargers.* It shall be unlawful to discharge without a town permit to any natural outlet within the town, or in any area under the jurisdiction of the town and/or to the POTW any wastewater except as authorized by the Superintendent in accordance with the provisions of this subchapter.

(B) *Wastewater contribution permits.*

(1) *General permits.* All significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant users connected to or contributing to the POTW shall obtain a wastewater contribution permit within 180 (optional) days after the effective date of this subchapter.

(2) *Permit application.*

(a) Users required to obtain a wastewater contribution permit shall complete and file with the town, an application in the form prescribed by the town, and accompanied by a fee of \$100. Existing users shall apply for a wastewater contribution permit within 30 (optional) days after the effective date of this subchapter, and proposed new users shall apply at least 90 (optional) days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

1. Name, address, and location, (if different from the address);
2. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
3. Wastewater constituents and characteristics including but not limited to those mentioned in §§ 52.42 through 52.49 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act (33 USC1314(g)) and contained in 40 CFR 136, as amended;
4. Time and duration of contribution;
5. Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
7. Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
8. Where known, the nature and concentration of any pollutants in the discharge which are limited by any town, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable Pretreatment Standards;

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9. If additional pretreatment and/or will be required to meet the Pretreatment Standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress 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 as, hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

b. No increment referred to in division above shall exceed nine months.

c. Not later than 14 days following each date the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Superintendent.

10. Each product produced by type, amount, process or processes and rate of production;

11. Type and amount of raw materials processed (average and maximum per day);

12. Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

13. Any other information as may be deemed by the town to be necessary to evaluate the permit application.

(b) The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a wastewater contribution permit subject to terms and conditions provided herein.

(3) *Permit modifications.* In nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater contribution 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 contribution permit as required by division (B)(2) above, the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing wastewater contribution permit shall submit to the Superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by divisions (B)(2)(a)8. and 9. above.

(4) *Permit conditions.* Wastewater discharge permits shall be expressly subject to all provisions of this subchapter and all other applicable regulations. User charges and fees established by the town. Permits may contain the following:

- (a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (b) Limits on the average and maximum wastewater constituents and characteristics;
- (c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
- (d) Requirements for installation and maintenance of inspection and sampling facilities;
- (e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (f) Compliance schedules;
- (g) Requirements for submission of technical reports; or discharge reports (see § 52.52);
- (h) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording town access thereto;
- (i) Requirements for notification of the town or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
- (j) Requirements for notification of slug discharges as per § 52.58(B);

(k) Other conditions as deemed appropriate by the town to ensure compliance with this subchapter.

(5) *Permits duration.* Permits shall be issued for a specified time period, not to exceed five (optional) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the town during the term of the permit as limitations or requirements as identified in §§ 52.42 through 52.49 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(6) *Permit transfer.* Wastewater discharge 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 without the approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. ('92 Code, § 51.51) (Ord. 1-500, passed 1-7-85) Penalty, see § 52.99

#### **§ 52.52 REPORTING REQUIREMENTS FOR PERMITTEE.**

(A) *Compliance date report.* Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being set on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(B) *Periodic compliance reports.*

(1) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceed the average daily flow reported in § 52.51(B)(2)(a)5. At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted.

(2) The Superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by division (1) above shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the Administrator pursuant to section 304(9) of the Act and contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the Administrator. Sampling shall be performed in accordance with the techniques approved by the Administrator.

(Comment: Where 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluent for Priority Pollutants, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator.)

(`92 Code, § 51.52) (Ord. 1-500, passed 1-7-85)

**§ 52.53 MONITORING FACILITIES.**

(A) The town shall require to be provided and operated 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.



(B) 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.

(C) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the town's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the town.

(`92 Code, § 51.53) (Ord. 1-500, passed 1-7-85)

#### **§ 52.54 INSPECTION AND SAMPLING.**

The town shall inspect the facilities of any user to ascertain whether the purpose of this subchapter 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 or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The town, approval authority and (where the NPDES State is the approval authority), 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.

(`92 Code, § 51.54) (Ord. 1-500, passed 1-7-85)

#### **§ 52.55 PRETREATMENT.**

(A) Users shall provide necessary wastewater treatment as required to comply with this subchapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the town 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 acceptable to the town before construction of the facility. The review of such plans and operating procedures will 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 subchapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the town prior to the user's initiation of the changes.

(B) The town shall annually publish in *The Smokey Mountain Times* newspaper a list of the users which were not in compliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months.

(C) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.  
(`92 Code, § 51.55) (Ord. 1-500, passed 1-7-85)

#### **§ 52.56 CONFIDENTIAL INFORMATION.**

(A) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town that the release of such information would divulge information processes or methods of production entitled to protection as trade secrets of the user.

(B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this subchapter, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(C) Information accepted by the city as confidential, shall not be transmitted to any governmental agency or to the general public by the town until and unless a ten-day notification is given to the user.  
(`92 Code, § 51.56) (Ord. 1-500, passed 1-7-85)

#### **§ 52.57 FALSIFYING INFORMATION.**

No person shall knowingly make any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this subchapter, or wastewater contribution permit, or falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this subchapter.  
(`92 Code, § 51.57) (Ord. 1-500, passed 1-7-85) Penalty, see § 52.99

**§ 52.58 ENFORCEMENT.****(A) Harmful contributions.**

(1) The town may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the town, 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, to the environment, causes interference to the POTW or causes the town to violate any condition of its NPDES permit.

(2) Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the town 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 town shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the town within 15 days of the date of occurrence.

**(B) Revocation of permit.** Any user who violates the following conditions of this subchapter, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this section:

(1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;

(2) Failure of the user 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.

**(C) Notification of violation.** Whenever the town finds that any user has violated or is violating this subchapter, wastewater contribution permit, or any prohibition, limitation of requirements contained herein, the town may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the town by the user.

(D) *Show cause hearing.*

(1) The town may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the Board of Aldermen why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Board of Aldermen regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the Board of Aldermen why the 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 days before the hearing. Service may be made on any agent or officer of a corporation.

(2) The Board of Aldermen may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the (assigned department) to:

(a) Issue in the name of the Board of Aldermen notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(b) Take the evidence;

(c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Board of Aldermen for action thereon.

(3) At any hearing held pursuant to this subchapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(4) After the Board of Aldermen has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(E) *Legal action.* If any person discharges sewage, industrial wastes or other wastes into the town's wastewater disposal system contrary to the provisions of this subchapter, federal or state pretreatment requirements, or any order of the town, the Town Attorney may commence an action for appropriate legal and/or equitable relief in the Circuit Court of this county.

( '92 Code, § 51.58) (Ord. 1-500, passed 1-7-85)

**§ 52.99 PENALTY.**

(A) If any person shall violate any provision of §§ 52.01 through 52.27, he shall be guilty of a misdemeanor and shall be fined not more than \$50 or imprisoned for not more than 30 days.

(B) Any user who is found to have violated an order of the Board of Aldermen or who willfully or negligently failed to comply with any provision of §§ 52.40 through 52.56, and the orders, rules, regulations and permits issued hereunder, shall be fined not less than \$100 nor more than \$1,000 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the town may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated §§ 52.40 through 52.56 or the orders, rules, regulations, and permits issued hereunder.

(C) Any person who violates § 52.57 shall, upon conviction, be fined not more than \$1,000 or imprisoned for not more than six months, or both.

(`92 Code, § 51.99) (Ord. 1-500, passed 1-7-85)

# The Town of Bryson City's Water Shortage Response Plan

## § 53.40 DEFINITION

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

**WATER SHORTAGE:** Shall be deemed to exist when the demand by customers connected to the Town water system reaches the point where continued or increased demand will equal or exceed the system supply and transmission capabilities. When demand results in the condition whereby customers cannot be supplied with water to protect their health and safety, then the demand must be substantially curtailed to relieve the water shortage.

(92' Code, § 52.01) (Ord., passed 11-9-87)

## § 53.41 DECLARATION OF WATER SHORTAGE

In the event it appears that water demand on the Town water system may exceed supply and transmission capabilities, the Town Manager shall declare that voluntary water conservation measures be implemented. The Town Manager shall declare a Stage 1 Water Shortage Condition Advisory requesting voluntary water conservation by consumers. In the event that voluntary conservation measures fail to relieve the demand on the system, the Town shall advance to a Stage 2 or Stage 3 Water Shortage Condition. ('92 Code, § 52.02) (Ord., passed 11-9-87)

## Section 1 AUTHORITY

Alternate authority: The Bryson City Town Manager shall enact the following water shortage response provisions whenever the trigger conditions outlined in Section 4 are met. In the absence of the Town Manager, the Water Plant Superintendent or ORC of the Water Plant will assume this role.

Larry Callicutt  
Bryson City Town Manager  
[lcallicutt@dnet.net](mailto:lcallicutt@dnet.net)  
828-488-3335

Lamar Williams  
Water and Waste Water Sup.  
[lamarwilliams@verizon.net](mailto:lamarwilliams@verizon.net)  
828-488-1004

Russell Ball  
ORC DCWTP  
[rdball@verizon.net](mailto:rdball@verizon.net)  
828-736-1174

## **Section 2 NOTIFICATION**

The following notification methods will be used to inform water system employees and customers of a water shortage declaration: Cell phone, land line, local radio 1590 WBHN, local news paper Smoky Mountain Times, messages included on billing, notices and flyers on public and municipal buildings.

## **Section 3 LEVELS OF RESPONSE**

Voluntary Stage 1

### **§ 53.42 STAGE 1 WATER SHORTAGE CONDITION**

(A) In the event a Stage 1 Water Shortage Condition is declared, the following guidelines shall apply:

- (1) An extensive publicity campaign will be initiated using public media and specialized methods to inform the public of an impending or existing water shortage.
- (2) Conservation measures will be encouraged and recommended.

(B) In the event a Stage 1 Water Shortage Condition is declared, the following guidelines shall apply and the public encouraged to adhere to the following:

- (1) Limit car washing to the minimum.
  - (2) Limit lawn and garden watering to that which is necessary for plants to survive.
  - (3) Do not wash down outside areas such as sidewalks, patios, parking lots, service bays or aprons, or the like.
  - (4) Do not leave faucets running while shaving or rinsing dishes.
  - (5) Water shrubbery to the minimum required, reusing household water when possible.
  - (6) Limit use of clothes washers and dishwashers and when used, operate fully loaded.
  - (7) Use showers for bathing rather than bathtubs, and limit showers to no more than four minutes.
  - (8) Limit flushing of toilets by multiple usage.
  - (9) Use of disposable and biodegradable dishes is encouraged.
  - (10) The use of flow restrictive and water saving devices.
  - (11) Limit the hours of operation of water-cooled air conditioners
  - (12) All residences, businesses, and institutions are requested to temporarily delay new landscape work until the water shortage has ended.
- ('92 Code, § 52.03) (Ord., passed 11-9-87)

## Mandatory Stage 2

### § 53.43 STAGE 2 WATER SHORTAGE CONDITION

- (A) In the event the Town Manager issues a declaration of a Stage 2 Water Shortage Condition, then it shall be unlawful for any person, firm, or corporation to use or permit the use of water from the Town water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the authority for declaring a water shortage condition, consideration shall be given to water storage levels and the available sources of supply, available usable storage on hand, drawdown rates, the projected supply capability, outlook for precipitation, daily water use patterns, and the availability of water from other sources.
- (B) In the event a Stage 1 Water Shortage Condition is in effect and the triggers described in Section 4 are met, then a Stage 2 Water Shortage Condition shall be proclaimed. In addition to the voluntary guidelines already in effect, it shall be unlawful to use water supplied by the Town water system in the following manner:
- (1) (a) To water lawns, grass, shrubbery, trees, flowers, and vegetable gardens except in accordance with the schedule set forth below for specific areas in the service area. Such watering shall be done by hand-held hose or container or by drip irrigation system only.  
(b) All areas may water on Sunday and Thursday between the hours of 6:00am and 9:00am.
  - (2) To fill newly constructed swimming and/or wading pools or refill swimming and/or wading pools which have been drained.
  - (3) To wash automobiles, trucks, trailers, boats, airplanes, or any other types of mobile equipment, including commercial washing.
  - (4) To wash down the outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of existing or newly constructed homes or apartments, sidewalks, or patios, or to use water for any other similar purposes.
  - (5) To use water from public or private fire hydrants for any purpose other than fire suppression or other public emergency.
  - (6) To operate or induce water into any ornamental fountain, or other structure making similar use of water.
  - (7) To serve drinking water in restaurants, cafeterias, or other food establishments, except upon request.
  - (8) To operate water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and welfare are adversely affected.
  - (9) To use water for any unnecessary purpose or to intentionally waste water.
- ('92 Code, § 52.04) (Ord., passed 11-9-87) Penalty, see § 53.99



## **Mandatory Stage 3**

### **§ 53.44 STAGE 3 WATER SHORTAGE CONDITION**

- (A) In the event the Town Manager issues a declaration of a Stage 3 Water Shortage condition, then it shall be unlawful for any person, firm, or corporation to use or permit the use of water from the Town water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the authority for declaring a water shortage condition, consideration shall be given to water storage levels and available sources of supply, available usable storage on hand, drawdown rates, the projected supply capability, outlook for precipitation, daily water use patterns, and the availability of water from other sources.
- (B) In the event a Stage 2 Water Shortage Condition exists and the triggers described in Section 4 Triggers are met, then a Stage 3 Water Shortage shall be declared. In addition to the restrictions for Stage 1 and Stage 2 Water Shortage Conditions, the following restrictions shall also apply:
- (1) To induce water into any pool.
  - (2) Use water outside a structure for any use other than an emergency involving a fire.
  - (3) Fire protection to be maintained by drafting of ponds, rivers, and the like whenever possible.
  - (4) The use of throw-away utensils and plates is encouraged and recommended at all eating establishments.
  - (5) To operate an evaporative air conditioner which recycles water except during operating hours of business.
- ('92 Code, § 52.05) (Ord., passed 11-9-87) Penalty, see § 53.99 existing plan and Section 5 ENFORCEMENT

### **Section 4 TRIGGERS**

The Town will add additional information concerning stream levels later this year. The Swain County Emergency Management Service has installed a water gauging station at our raw water intake, stream levels will be internet accessible 24 hours per day. The data on stream level will take some time to compile but will be a very effective tool in deciding when to implement water shortage conditions. The level of Deep Creek will be given in values of feet/inches when enough data is gathered. Updates will follow as data is compiled.

Example:

## **Section 4 TRIGGERS**

The Town shall declare the appropriate Stage 1, 2, or 3 water shortage condition based on the following data gathered from Flood Inundation Management Alert Network (FIMAN) stream gauge site, located at the Raw Water Intake. If there are changes made to the sensor; adjustments will need to be made to the shortage stage levels. The Town reserves the right to adjust these triggers as necessary as more data is compiled and if it becomes apparent there is a problem with the current triggers. North Carolina Division of Water Resources, Water Supply Planning Section will be notified immediately of any changes that are made to these triggers.

### **STREAM STAGE TRIGGERS**

Stage 1 Voluntary Level shall be declared when the level of Deep Creek is reported by FIMAN to be at one foot.

Stage 2 Level shall be declared when the level of Deep Creek is reported by FIMAN to be at ½ foot or Six inches.

Stage 3 Level shall be declared when the level of Deep Creek is reported by FIMAN to be at 0 feet.

Deep Creek is normally at or above 1foot 9 inches (1.75 feet) using the current FIMAN sensor data to calculate stream depth.

Additional triggers include .....(existing plan)

- 38 inches = level 1 implemented
- 32 inches = level 2 implemented
- 27 inches = level 3 implemented

Additional triggers include severe mechanical failures, main line breaks, source contamination, or exceeding 80% of the Water Plants capacity for more than three days consecutively (7Q10). Examples of mechanical breakdowns include but are not limited to filter under drain failure, pump failures etc. In addition to the aforementioned triggers the levels in storage tanks shall be considered in the declaration of any or all of the levels of a water shortage and the timing of its implementation. Presently when the tank level drops below 46.5 feet at the Sherrill Gap tank some customers begin to lose pressure. When any trigger such as a mechanical failure, main line break, or drought condition that limits the refilling of the Sherrill Gap tank or any combination of storage tanks to less than acceptable levels, the appropriate Stage of use restriction will be declared. A situation could exist where only a portion of the system would be affected, limiting use restrictions to the affected area only.

A Stage 1 level shall be declared when there are one or more of the aforementioned triggers that would limit or hinder the ability to produce or supply water for a short or limited time or when the level of raw source water is deemed low or has the potential to drop to a level that could limit production of potable water, or when use exceeds 80% of production for three consecutive days. Goal is 5-10% reduction in use.

A Stage 2 level shall be declared when there are one or more of the aforementioned triggers that would limit or hinder the ability to produce or supply water for an extended period of time or until whatever repairs needed can be made to the mechanical failure, stream levels drop to levels that limit production, or when use exceeds 80% of production for 5 consecutive days. Goal is 10-20% reduction in use.

A Stage 3 level shall be declared when there are one or more of the aforementioned triggers that would limit or hinder the ability to produce or supply water for an extreme or extended period of time to include extreme mechanical failures, severe or extreme drought conditions or any combination of the above, or when use exceeds 80% of production for 7 consecutive days. Goal is 25% reduction in use.

#### **§ 53.45 LIFTING OF RESTRICTIONS**

- (A) Water shortage conditions will expire when the Town Manager after consultation with the Board of Aldermen and upon the recommendation of Superintendent of Water and Waste Water and the ORC of the WTP, deems that the condition which caused the alert abated.
- (B) The expiration or cancelation of a water shortage declaration shall be promptly and extensively publicized. See Section 2 Notification ('92 Code, § 52.06) (Ord., passed 11-9-87)

**Section 5 ENFORCEMENT**

- (A) Every Police Officer of the Town shall, in connection with his duties imposed by the law, diligently enforce the provisions of this WSRP.
- (B) The Town Manager shall have the authority to enforce the provisions of this WSRP by the discontinuance of water service as specified in § 53.47 in the event of violation hereof.  
(\*92 Code, § 52.07) (Ord., passed 11-9-87)
- (C) The violation of these provisions may be reported at the following Number: (828)488-3335.

**§ 53.47 Discontinuance Of Service**

Pursuant to the provisions of G.S. § 160A-174 and the Town water regulations, service may be temporarily discontinued for willful disregard of this WSRP and a \$250.00 reconnect fee may be imposed before restoration of service. In the event of continued gross noncompliance with this WSRP, the removal of the meter will be deemed proper, service will be discontinued, and all tap fees and deposits forfeited. Reconnection will only be made by payment of current due amounts, and new tap fees and deposits shall be paid.

(\*92 Code, § 52.08) (Ord., passed 11-9-87)

Level	violation 1	violation 2	violation 3
STAGE 1	N/A	N/A	N/A
STAGE 2	warning	\$100.00	discontinue service
STAGE 3	\$250.00	discontinue service	

Reconnect Fee \$250.00

**§ 53.99 PENALTY**

Any violation of the provisions of this WSRP shall constitute a misdemeanor, punishable upon conviction by a fine not to exceed \$250.00 or imprisonment not exceeding 30 days as provided by G.S. § 14-4, and in addition thereto such violation may be enjoined and restrained as provided in G.S. § 160A-175.

(\*92 Code, § 52.99) (Ord., passed 11-9-87)

**Section 6 PUBLIC COMMENT**

The public will be given the opportunity to review and comment on the WSRP at a public meeting at the Town Hall of Bryson City, the public will be given notice prior to the meeting (time/date) by one or more of the methods listed in Section 2 Notification, this

will normally be through the Smoky Mountain Times newspaper. This will precede final adoption of the proposed plan, after a final draft is complete and all revisions have been made, the Bryson City Board of Aldermen will vote to adopt or decline the proposed plan.

## **Section 7 VARIANCE PROTOCOLS**

Requests for variance related to the different levels of water use restrictions will be made directly to the Bryson City Board of Aldermen, during regularly scheduled Board meetings. Persons wishing to make a request for variance should contact the Town Office at (828)488-3335 before the Town Board meeting and be scheduled for a time on the meeting agenda to make their request. All requests for variance will be reviewed and a decision to approve or disapprove the request made as quickly as possible. The decision to approve or disapprove will be made based on the human and economic impact, the expected duration of the restriction level or levels, and the health, welfare, and safety of the public.

## **Section 8 EFFECTIVENESS**

The effectiveness of these WSRP protocols will be evaluated by comparing amounts of water used while the levels of restriction are declared compared to historical data from periods of normal operation. This data will come from billing records, water plant records, etc. This information will be used to calculate the percentage of effectiveness of the restrictions and determine if the expected goals in use reduction have been met.

## **Section 9 REVISIONS**

The WSRP will be reviewed and revised as needed to adapt to new circumstances that affect the supply and demand of the water resource, the plan should be reviewed and revised a minimum of every five years in conjunction with the updating of the LWSP, and at any time a deficiency is identified in the WSRP. All revisions should follow the protocols laid out in Section 7 of this proposal.

## **Section 10 REGULATION OF PRIVATE WELLS**

The Town of Bryson City has NO plan or provision to meter or regulate private drinking water wells.

# The Town of Bryson City's Water Shortage Response Plan

## § 53.40 DEFINITION

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

**WATER SHORTAGE:** Shall be deemed to exist when the demand by customers connected to the Town water system reaches the point where continued or increased demand will equal or exceed the system supply and transmission capabilities. When demand results in the condition whereby customers cannot be supplied with water to protect their health and safety, then the demand must be substantially curtailed to relieve the water shortage.

(92' Code, § 52.01) (Ord., passed 11-9-87)

## § 53.41 DECLARATION OF WATER SHORTAGE

In the event it appears that water demand on the Town water system may exceed supply and transmission capabilities, the Town Manager shall declare that voluntary water conservation measures be implemented. The Town Manager shall declare a Stage 1 Water Shortage Condition Advisory requesting voluntary water conservation by consumers. In the event that voluntary conservation measures fail to relieve the demand on the system, the Town shall advance to a Stage 2 or Stage 3 Water Shortage Condition. ('92 Code, § 52.02) (Ord., passed 11-9-87)

## Section 1 AUTHORITY

Alternate authority: The Bryson City Town Manager shall enact the following water shortage response provisions whenever the trigger conditions outlined in Section 4 are met. In the absence of the Town Manager, the Water Plant Superintendant or ORC of the Water Plant will assume this role.

Larry Callicutt  
Bryson City Town Manager  
[lcallicutt@dnet.net](mailto:lcallicutt@dnet.net)  
828-488-3335

Lamar Williams  
Water and Waste Water Sup.  
[lamarwilliams@verizon.net](mailto:lamarwilliams@verizon.net)  
828-488-1004

Russell Ball  
ORC DCWTP  
[rdball@verizon.net](mailto:rdball@verizon.net)  
828-736-1174

## **Section 2 NOTIFICATION**

The following notification methods will be used to inform water system employees and customers of a water shortage declaration: Cell phone, land line, local radio 1590 WBHN, local news paper Smoky Mountain Times, messages included on billing, notices and flyers on public and municipal buildings.

## **Section 3 LEVELS OF RESPONSE**

### **Voluntary Stage 1**

#### **§ 53.42 STAGE 1 WATER SHORTAGE CONDITION**

(A) In the event a Stage 1 Water Shortage Condition is declared, the following guidelines shall apply:

- (1) An extensive publicity campaign will be initiated using public media and specialized methods to inform the public of an impending or existing water shortage.
- (2) Conservation measures will be encouraged and recommended.

(B) In the event a Stage 1 Water Shortage Condition is declared, the following guidelines shall apply and the public encouraged to adhere to the following:

- (1) Limit car washing to the minimum.
  - (2) Limit lawn and garden watering to that which is necessary for plants to survive.
  - (3) Do not wash down outside areas such as sidewalks, patios, parking lots, service bays or aprons, or the like.
  - (4) Do not leave faucets running while shaving or rinsing dishes.
  - (5) Water shrubbery to the minimum required, reusing household water when possible.
  - (6) Limit use of clothes washers and dishwashers and when used, operate fully loaded.
  - (7) Use showers for bathing rather than bathtubs, and limit showers to no more than four minutes.
  - (8) Limit flushing of toilets by multiple usage.
  - (9) Use of disposable and biodegradable dishes is encouraged.
  - (10) The use of flow restrictive and water saving devices.
  - (11) Limit the hours of operation of water-cooled air conditioners
  - (12) All residences, businesses, and institutions are requested to temporarily delay new landscape work until the water shortage has ended.
- ('92 Code, § 52.03) (Ord., passed 11-9-87)

## Mandatory Stage 2

### § 53.43 STAGE 2 WATER SHORTAGE CONDITION

- (A) In the event the Town Manager issues a declaration of a Stage 2 Water Shortage Condition, then it shall be unlawful for any person, firm, or corporation to use or permit the use of water from the Town water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the authority for declaring a water shortage condition, consideration shall be given to water storage levels and the available sources of supply, available usable storage on hand, drawdown rates, the projected supply capability, outlook for precipitation, daily water use patterns, and the availability of water from other sources.
- (B) In the event a Stage 1 Water Shortage Condition is in effect and the triggers described in Section 4 are met, then a Stage 2 Water Shortage Condition shall be proclaimed. In addition to the voluntary guidelines already in effect, it shall be unlawful to use water supplied by the Town water system in the following manner:
- (1) (a) To water lawns, grass, shrubbery, trees, flowers, and vegetable gardens except in accordance with the schedule set forth below for specific areas in the service area. Such watering shall be done by hand-held hose or container or by drip irrigation system only.  
(b) All areas may water on Sunday and Thursday between the hours of 6:00am and 9:00am.
  - (2) To fill newly constructed swimming and/or wading pools or refill swimming and/or wading pools which have been drained.
  - (3) To wash automobiles, trucks, trailers, boats, airplanes, or any other types of mobile equipment, including commercial washing.
  - (4) To wash down the outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of existing or newly constructed homes or apartments, sidewalks, or patios, or to use water for any other similar purposes.
  - (5) To use water from public or private fire hydrants for any purpose other than fire suppression or other public emergency.
  - (6) To operate or induce water into any ornamental fountain, or other structure making similar use of water.
  - (7) To serve drinking water in restaurants, cafeterias, or other food establishments, except upon request.
  - (8) To operate water-cooled air conditioners or other equipment that does not recycle cooling water, except when health and welfare are adversely affected.
  - (9) To use water for any unnecessary purpose or to intentionally waste water.
- ('92 Code, § 52.04) (Ord., passed 11-9-87) Penalty, see § 53.99



## **Mandatory Stage 3**

### **§ 53.44 STAGE 3 WATER SHORTAGE CONDITION**

- (A) In the event the Town Manager issues a declaration of a Stage 3 Water Shortage condition, then it shall be unlawful for any person, firm, or corporation to use or permit the use of water from the Town water system for any purpose hereinafter set forth until such time as the declaration of water shortage has been rescinded. In exercising the authority for declaring a water shortage condition, consideration shall be given to water storage levels and available sources of supply, available usable storage on hand, drawdown rates, the projected supply capability, outlook for precipitation, daily water use patterns, and the availability of water from other sources.
- (B) In the event a Stage 2 Water Shortage Condition exists and the triggers described in Section 4 Triggers are met, then a Stage 3 Water Shortage shall be declared. In addition to the restrictions for Stage 1 and Stage 2 Water Shortage Conditions, the following restrictions shall also apply:
- (1) To induce water into any pool.
  - (2) Use water outside a structure for any use other than an emergency involving a fire.
  - (3) Fire protection to be maintained by drafting of ponds, rivers, and the like whenever possible.
  - (4) The use of throw-away utensils and plates is encouraged and recommended at all eating establishments.
  - (5) To operate an evaporative air conditioner which recycles water except during operating hours of business.
- ('92 Code, § 52.05) (Ord., passed 11-9-87) Penalty, see § 53.99 existing plan and Section 5 ENFORCEMENT

### **Section 4 TRIGGERS**

The Town will add additional information concerning stream levels later this year. The Swain County Emergency Management Service has installed a water gauging station at our raw water intake, stream levels will be internet accessible 24 hours per day. The data on stream level will take some time to compile but will be a very effective tool in deciding when to implement water shortage conditions. The level of Deep Creek will be given in values of feet/inches when enough data is gathered. Updates will follow as data is compiled.

Example:

## **Section 4 TRIGGERS**

The Town shall declare the appropriate Stage 1, 2, or 3 water shortage condition based on the following data gathered from Flood Inundation Management Alert Network (FIMAN) stream gauge site, located at the Raw Water Intake. If there are changes made to the sensor; adjustments will need to be made to the shortage stage levels. The Town reserves the right to adjust these triggers as necessary as more data is compiled and if it becomes apparent there is a problem with the current triggers. North Carolina Division of Water Resources, Water Supply Planning Section will be notified immediately of any changes that are made to these triggers.

### **STREAM STAGE TRIGGERS**

Stage 1 Voluntary Level shall be declared when the level of Deep Creek is reported by FIMAN to be at one foot.

Stage 2 Level shall be declared when the level of Deep Creek is reported by FIMAN to be at ½ foot or Six inches.

Stage 3 Level shall be declared when the level of Deep Creek is reported by FIMAN to be at 0 feet.

Deep Creek is normally at or above 1 foot 9 inches (1.75 feet) using the current FIMAN sensor data to calculate stream depth.

Additional triggers include .....(existing plan)

38 inches = level 1 implemented  
32 inches = level 2 implemented  
27 inches = level 3 implemented

Additional triggers include severe mechanical failures, main line breaks, source contamination, or exceeding 80% of the Water Plants capacity for more than three days consecutively (7Q10). Examples of mechanical breakdowns include but are not limited to filter under drain failure, pump failures etc. In addition to the aforementioned triggers the levels in storage tanks shall be considered in the declaration of any or all of the levels of a water shortage and the timing of its implementation. Presently when the tank level drops below 46.5 feet at the Sherrill Gap tank some customers begin to lose pressure. When any trigger such as a mechanical failure, main line break, or drought condition that limits the refilling of the Sherrill Gap tank or any combination of storage tanks to less than acceptable levels, the appropriate Stage of use restriction will be declared. A situation could exist where only a portion of the system would be affected, limiting use restrictions to the affected area only.

A Stage 1 level shall be declared when there are one or more of the aforementioned triggers that would limit or hinder the ability to produce or supply water for a short or limited time or when the level of raw source water is deemed low or has the potential to drop to a level that could limit production of potable water, or when use exceeds 80% of production for three consecutive days. Goal is 5-10% reduction in use.

A Stage 2 level shall be declared when there are one or more of the aforementioned triggers that would limit or hinder the ability to produce or supply water for an extended period of time or until whatever repairs needed can be made to the mechanical failure, stream levels drop to levels that limit production, or when use exceeds 80% of production for 5 consecutive days. Goal is 10-20% reduction in use.

A Stage 3 level shall be declared when there are one or more of the aforementioned triggers that would limit or hinder the ability to produce or supply water for an extreme or extended period of time to include extreme mechanical failures, severe or extreme drought conditions or any combination of the above, or when use exceeds 80% of production for 7 consecutive days. Goal is 25% reduction in use.

#### **§ 53.45 LIFTING OF RESTRICTIONS**

- (A) Water shortage conditions will expire when the Town Manager after consultation with the Board of Aldermen and upon the recommendation of Superintendent of Water and Waste Water and the ORC of the WTP, deems that the condition which caused the alert abated.
- (B) The expiration or cancelation of a water shortage declaration shall be promptly and extensively publicized. See Section 2 Notification ('92 Code, § 52.06) (Ord., passed 11-9-87)

**Section 5 ENFORCEMENT**

- (A) Every Police Officer of the Town shall, in connection with his duties imposed by the law, diligently enforce the provisions of this WSRP.
- (B) The Town Manager shall have the authority to enforce the provisions of this WSRP by the discontinuance of water service as specified in § 53.47 in the event of violation hereof.  
(’92 Code, § 52.07) (Ord., passed 11-9-87)
- (C) The violation of these provisions may be reported at the following Number: (828)488-3335.

**§ 53.47 Discontinuance Of Service**

Pursuant to the provisions of G.S. § 160A-174 and the Town water regulations, service may be temporarily discontinued for willful disregard of this WSRP and a \$250.00 reconnect fee may be imposed before restoration of service. In the event of continued gross noncompliance with this WSRP, the removal of the meter will be deemed proper, service will be discontinued, and all tap fees and deposits forfeited. Reconnection will only be made by payment of current due amounts, and new tap fees and deposits shall be paid.

(’92 Code, § 52.08) (Ord., passed 11-9-87)

Level	violation 1	violation 2	violation 3
STAGE 1	N/A	N/A	N/A
STAGE 2	warning	\$100.00	discontinue service
STAGE 3	\$250.00	discontinue service	

Reconnect Fee \$250.00

**§ 53.99 PENALTY**

Any violation of the provisions of this WSRP shall constitute a misdemeanor, punishable upon conviction by a fine not to exceed \$250.00 or imprisonment not exceeding 30 days as provided by G.S. § 14-4, and in addition thereto such violation may be enjoined and restrained as provided in G.S. § 160A-175.

(’92 Code, § 52.99) (Ord., passed 11-9-87)

**Section 6 PUBLIC COMMENT**

The public will be given the opportunity to review and comment on the WSRP at a public meeting at the Town Hall of Bryson City, the public will be given notice prior to the meeting (time/date) by one or more of the methods listed in Section 2 Notification, this

will normally be through the Smoky Mountain Times newspaper. This will precede final adoption of the proposed plan, after a final draft is complete and all revisions have been made, the Bryson City Board of Aldermen will vote to adopt or decline the proposed plan.

## **Section 7 VARIANCE PROTOCOLS**

Requests for variance related to the different levels of water use restrictions will be made directly to the Bryson City Board of Aldermen, during regularly scheduled Board meetings. Persons wishing to make a request for variance should contact the Town Office at (828)488-3335 before the Town Board meeting and be scheduled for a time on the meeting agenda to make their request. All requests for variance will be reviewed and a decision to approve or disapprove the request made as quickly as possible. The decision to approve or disapprove will be made based on the human and economic impact, the expected duration of the restriction level or levels, and the health, welfare, and safety of the public.

## **Section 8 EFFECTIVENESS**

The effectiveness of these WSRP protocols will be evaluated by comparing amounts of water used while the levels of restriction are declared compared to historical data from periods of normal operation. This data will come from billing records, water plant records, etc. This information will be used to calculate the percentage of effectiveness of the restrictions and determine if the expected goals in use reduction have been met.

## **Section 9 REVISIONS**

The WSRP will be reviewed and revised as needed to adapt to new circumstances that affect the supply and demand of the water resource, the plan should be reviewed and revised a minimum of every five years in conjunction with the updating of the LWSP, and at any time a deficiency is identified in the WSRP. All revisions should follow the protocols laid out in Section 7 of this proposal.

## **Section 10 REGULATION OF PRIVATE WELLS**

The Town of Bryson City has NO plan or provision to meter or regulate private drinking water wells.

## CHAPTER 70: GENERAL PROVISIONS

### Section

#### *General Provisions*

- 70.01 Definitions
- 70.02 Compliance with title
- 70.03 Obedience to police
- 70.04 Enforcement authority
- 70.05 Application of chapter to drivers of government vehicles
- 70.06 Application of chapter to persons propelling pushcarts or riding animals
- 70.07 Accident reports

#### *Traffic-Control Devices*

- 70.20 Installation and maintenance
- 70.21 Obedience to devices
- 70.22 Necessity of signs
  
- 70.99 Penalty

### **GENERAL PROVISIONS**

#### **§ 70.01 DEFINITIONS.**

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

**AUTHORIZED EMERGENCY VEHICLE.** Vehicles of the Fire Department, police vehicles, emergency vehicles of municipal departments and such ambulances designated or authorized by the Chief of Police.

**BLOCK.** A portion of any street located between two intersections adjacent to each other.

**Bryson City - Traffic Code**

***BUSINESS DISTRICT.*** The territory contiguous to a street or highway when 50% or more of frontage thereon, for a distance of 300 feet or more, is occupied by buildings which are in use for business purposes.

***CROSSWALK.*** 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.*** The operator of a vehicle as defined in G.S. § 20-4.01(25). The terms "***DRIVER***" and "***OPERATOR***" and their cognates are synonymous.

***INTERSECTION.***

(1) The area embraced within the prolongation of the lateral curblines or, if none, then the lateral edge of roadway lines of two or more highways which join one another at any angle whether or not one such highway crosses the other.

(2) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event that such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways such highways shall be regarded as a separate intersection.

***OFFICIAL TIME STANDARD.*** Whenever certain hours are named herein they shall mean standard time or daylight saving time as may be in current use in this town.

***OFFICIAL TRAFFIC-CONTROL DEVICES.*** All signs, signals, markings and devices not inconsistent with this chapter, placed or erected by authority of the governing body or an official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

***OFFICIAL TRAFFIC SIGNALS.*** Any device, whether manually or automatically 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 merchandise or passengers.

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

***STANDING.*** Any stopping of a vehicle whether occupied or not.

**STOP.** When required, means complete cessation of movement.

**STREET** or **HIGHWAY.** 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.

**VEHICLE.** Every device, in upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this chapter bicycles shall be deemed vehicles and every rider of a bicycle upon a highway shall be subject to the provisions of this chapter applicable to the driver of a vehicle except those, which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, is suitable for use both inside and outside a building, and whose maximum speed does not exceed 12 miles per hour when the device is being operated by a person with a mobility impairment.

(`92 Code, § 70.01) (Ord. 2, passed 4-11-88)

**§ 70.02 COMPLIANCE WITH TITLE.**

It shall be unlawful for any person to do any act forbidden or fail to perform any act required in this title.

(`92 Code, § 70.02) (Ord. 2, passed 4-11-88) Penalty, see § 70.99

**§ 70.03 OBEDIENCE TO POLICE.**

No person shall willfully fail or refuse to comply with any lawful order or direction given by a police officer in the performance of his duties or the exercise of powers prescribed by this chapter.

(`92 Code, § 70.03) (Ord. 2, passed 4-11-88) Penalty, see § 70.99

**§ 70.04 ENFORCEMENT AUTHORITY.**

(A) The town police officers shall at all times have the duty of enforcing the traffic regulations of the town and the traffic laws of the state, and to direct all traffic in conformance with such regulations and laws, and shall have the power and duty, in the event of a fire or other emergency or to expedite traffic or to insure safety, to direct traffic as conditions may require, notwithstanding any provisions of the state law or the regulations of the town.

(B) The Chief of Police of the town shall at all times have the authority to designate parking areas, including, but not limited to, restricted and limited parking areas.



(C) In the event of fire, the members of the Fire Department of the town shall have the same powers in regard to the direction of traffic as vested in the town police officers.  
(`92 Code, § 70.04) (Ord. 2, passed 4-11-88)

#### **§ 70.05 APPLICATION OF CHAPTER TO DRIVERS OF GOVERNMENT VEHICLES.**

The provisions of this title shall apply to the driver of any vehicle owned by, or used in the service of, the United States government, this state, county or town, and it shall be unlawful for any driver to violate any of the provisions of this title, except as otherwise permitted in this title or by state law.  
(`92 Code, § 70.05) (Ord. 2, passed 4-11-88)

#### **§ 70.06 APPLICATION OF CHAPTER TO PERSONS PROPELLING PUSHCARTS OR RIDING ANIMALS.**

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

(`92 Code, § 70.06) (Ord. 2, passed 4-11-88)

***Cross-reference:***

*Animal drawn vehicles, see Chapter 113*

#### **§ 70.07 ACCIDENT REPORTS.**

(A) The driver of a vehicle involved in a collision resulting in injury to or death of any person of total property damage to an apparent extent of \$200 or more, shall immediately, by the quickest means of communication, give notice of the collision to the Police Department, if the collision occurs within the town.

(B) Notwithstanding any other provision of this section, the driver of any motor vehicle which collides with another motor vehicle left parked or unattended on any street or highway in the town, shall immediately report the collision to the owner of such parked or unattended motor vehicle. Such report shall include the time, date and place of the collision, the driver's name, address, operator's or chauffeur's license number and the registration number of the vehicle being operated by the driver at the time of the collision. Such report may be oral or in writing. In the event the driver if, for any reason, is unable to make the report required by this division, such driver shall make and file a report of the collision in the same manner and subject to the same requirements as in the case of a collision as provided in division (A) above.

(C) The Police Department may require the driver of a vehicle involved in a collision which is required to be reported by this section to file a supplemental report when the original report is insufficient, in the opinion of the Department, and the Department may require witnesses of a collision to render reports.

(`92 Code, § 70.07) Penalty, see § 70.99

***TRAFFIC-CONTROL DEVICES***

**§ 70.20 INSTALLATION AND MAINTENANCE.**

The Chief of Police is hereby authorized to designate those intersections at which traffic shall be controlled by official traffic-control signals, and he shall install such signals as shall be necessary. The Town Clerk shall also install and maintain such other traffic-control devices as are necessary to carry out the provisions of this title.

(`92 Code, § 70.20)

**§ 70.21 OBEDIENCE TO DEVICES.**

It shall be unlawful for the driver of any vehicle or any pedestrian to disobey the instructions of any official traffic-control device or signal placed in accordance with the provisions of this title, unless otherwise directed by a police officer then on duty.

(`92 Code, § 70.21) Penalty, see § 70.99

**§ 70.22 NECESSITY OF SIGNS.**

No provision of this title for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not visible or in the proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required such section shall be effective without signs being placed to give notice thereof.

(`92 Code, § 70.22)

**§ 70.99 PENALTY.**

If any person shall violate an ordinance regulating the operation or parking of vehicles, he or she shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50.

(G.S. § 14-4(b))

## CHAPTER 71: TRAFFIC RULES

### Section

- 71.01 Riding on handlebars, frame or tank of motorcycles or bicycles
- 71.02 Clinging to moving vehicles
- 71.03 Use of roller skates, coasters, and similar devices
- 71.04 Manner of riding bicycles, motorcycles
- 71.05 Spilling of vehicle loads
- 71.06 Funerals, processions, parades
- 71.07 Prohibited turns
- 71.08 "Corner cutting" prohibited
- 71.09 Yield right-of-way intersections
- 71.10 One-way streets and alleys—designation and marking
- 71.11 Opening doors into traffic
- 71.12 Limitations on turning around
- 71.13 Driving on play streets
- 71.14 Quiet zones
- 71.15 Designation of crosswalks and safety zones
- 71.16 Speed limits
- 71.17 Stop intersections
- 71.18 Stop required when emerging from alley, private road, driveway or building
- 71.19 Moving cars from parked position

### *Cross-reference:*

*Littering from vehicles, see § 130.04*

*Parades and demonstrations, see §§ 94.35 through 94.42*

### **§ 71.01 RIDING ON HANDLEBARS, FRAME OR TANK OF MOTORCYCLES OR BICYCLES.**

The operator of a motorcycle or bicycle when upon a street shall not carry any person upon the handlebar, frame or tank of any such vehicle, nor shall any person so ride upon any such vehicle.  
(`92 Code, § 71.01) Penalty, see § 70.99

**§ 71.02 CLINGING TO MOVING VEHICLES.**

Any person riding upon any bicycle, motorcycle, coaster, sled, roller skates or any toy vehicles shall not attach the same or himself to any public conveyance or moving vehicle upon any roadway. ('92 Code, § 71.02) Penalty, see § 70.99

**§ 71.03 USE OF ROLLER SKATES, COASTERS, AND SIMILAR DEVICES.**

No person upon roller skates, roller blades, skateboards, 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, except upon streets set aside as play streets. ('92 Code, § 71.03) (Am. Ord. passed 8-3-87; Am. Ord. passed 2-3-97) Penalty, see § 70.99

**§ 71.04 MANNER OF RIDING BICYCLES, MOTORCYCLES.**

No person shall ride a bicycle or motorcycle on any street without having his hands upon the handlebars, nor shall any person ride a bicycle on any sidewalk or walkway within the town. ('92 Code, § 71.04) Penalty, see § 70.99

**§ 71.05 SPILLING OF VEHICLE LOADS.**

It shall be unlawful for any person to overload any truck or vehicle while transporting and moving dirt, stone or any other material over the public streets of the town to the extent of permitting or allowing the dirt, stone or any other material to fall from or be thrown from the vehicle while traveling on and over the streets without removing the dirt, stone or any other material from the streets the same day on which it was permitted or allowed to be deposited upon the public streets. ('92 Code, § 71.05) Penalty, see § 70.99

**§ 71.06 FUNERALS, PROCESSIONS, PARADES.**

(A) No funeral, procession, demonstration or parade excepting the forces of the United States Army or Navy, the military forces of this state, and the forces of the Police and Fire Departments, shall occupy, march or proceed along any street, except in accordance with a permit issued in accordance with the ordinances of the town.

(B) No vehicle shall be driven through a funeral procession except fire department vehicles, police patrols and ambulances when the same are responding to calls.

(`92 Code, § 71.06) Penalty, see § 70.99

*Cross-reference:*

*Parades and demonstrations, see §§ 94.35 et seq.*

### **§ 71.07 PROHIBITED TURNS.**

The Chief of Police is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn and shall place proper signs at such intersections. No driver of a vehicle shall turn the same contrary to any such sign.

(`92 Code, § 71.07) Penalty, see § 70.99

### **§ 71.08 "CORNER CUTTING" PROHIBITED.**

It shall be unlawful for any person to drive a vehicle over any sidewalk area and through any driveway, parking lot or any business entrance at any intersection, in making either a right or left turn, except for the purpose of coming to a complete stop to obtain or render some service or make a sale or purchase. It is the intention of this section to prohibit corner cutting by driving a vehicle from one street into another across any sidewalk and driveway and/or through any driveway.

(`92 Code, § 71.08) Penalty, see § 70.99

### **§ 71.09 YIELD RIGHT-OF-WAY INTERSECTIONS.**

The Chief of Police is hereby authorized to designate main-traveled or through streets, 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. Notwithstanding any other provisions of this title, whenever any such yield right-of-way signs have been so erected, 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.

(`92 Code, § 71.09) Penalty, see § 70.99

**§ 71.10 ONE-WAY STREETS AND ALLEYS-DESIGNATION AND MARKING.**

The Chief of Police is hereby authorized to designate streets and alleys, or portions thereof, whereon vehicular traffic shall be restricted to one direction only. Whenever such a designation is made, signs shall be erected and maintained at every intersection or entrance to such street or alley where movement in the opposite direction is prohibited, which signs shall indicate the direction of lawful traffic movement.

(`92 Code, § 71.10) Penalty, see § 70.99

**§ 71.11 OPENING DOORS INTO TRAFFIC.**

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonable safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

(`92 Code, § 71.11) Penalty, see § 70.99

**§ 71.12 LIMITATIONS ON TURNING AROUND.**

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not, upon any other street, so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

(`92 Code, § 71.12) Penalty, see § 70.99

**§ 71.13 DRIVING ON PLAY STREETS.**

(A) The Chief of Police may declare any street or part thereof a play street and place appropriate signs in the roadway indicating the same and, when so declared and indicated, no person shall drive a vehicle upon any such street or portion thereof, except drivers of vehicles having business or whose residences are within such closed area and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.

(B) On those days when conditions are suitable for coasting on snow or ice, no person shall drive a vehicle upon any street or parts of streets when signs are erected giving notice thereof. This section shall not prevent the use of any streets by drivers of vehicles having business or whose residences are within such reserved areas, but any such driver shall exercise the greatest care in driving upon such streets.

(`92 Code, § 71.13) Penalty, see § 70.99

**§ 71.14 QUIET ZONES.**

Whenever authorized signs are placed, erected or installed indicating a zone of quiet, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of the vehicle except in an emergency.

(`92 Code, § 71.14) Penalty, see § 70.99

**§ 71.15 DESIGNATION OF CROSSWALKS AND SAFETY ZONES.**

The Chief of Police is hereby authorized to designate and shall thereafter maintain or cause to be maintained, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, in his opinion, there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary. The Chief of Police is also authorized to establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

(`92 Code, § 71.15)

**§ 71.16 SPEED LIMITS.**

A vehicle may not be operated at a speed in excess of the following:

(A) Those speed limits established by ordinance of this town from time to time, such speed limits to be posted by traffic control sign; or

(B) Those speed limits established and enforced by the state under G.S. § 20-141(b).

(`92 Code, § 71.16) Penalty, see § 70.99

**§ 71.17 STOP INTERSECTIONS.**

The Chief of Police is hereby authorized to erect stop signs at the entrances of intersections designated by him, which signs shall be located so as to indicate which vehicles approaching the intersection are required to stop. The driver of a vehicle approaching such a sign shall stop at the entrance to the intersection and shall yield the right-of-way to other vehicles which have entered the intersection or which are approaching so closely as to constitute an immediate hazard, but such drivers having so yielded, may proceed and the drivers of all other vehicles approaching the intersection shall yield the right-of-way to the vehicle so proceeding into or across the same.

(`92 Code, § 72.02) Penalty, see § 70.99



**§ 71.18 STOP REQUIRED WHEN EMERGING FROM ALLEY, PRIVATE ROAD, DRIVEWAY OR BUILDING.**

The driver of a vehicle emerging from an alley, private road, driveway or building shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area, and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.

(`92 Code, § 72.03) Penalty, see § 70.99

**§ 71.19 MOVING CARS FROM PARKED POSITION.**

Cars parked shall move out in the direction headed, or if they are parked at an angle with the curb they shall back out on that angle until they have cleared the other cars and shall proceed in the direction they are most nearly headed in.

(`92 Code, § 72.04) Penalty, see § 70.99

## CHAPTER 72: PARKING REGULATIONS

### Section

#### *Manner of Parking*

- 72.01 Unattended vehicles
- 72.02 Standing or parking close to curb
- 72.03 Obedience to angle-parking signs or markings
- 72.04 Parking within marked off spaces
- 72.05 Stopping with left side of car to curb prohibited
- 72.06 Parking so as to interfere with police, fire and sanitary divisions
- 72.07 Maximum permissible length of parked vehicles
- 72.08 Lights on parked vehicles

#### *Parking Regulated or Restricted*

- 72.25 Designation and marking of restricted areas
- 72.26 Prohibited places; no signs required
- 72.27 Unlawful parking
- 72.28 Parking not to obstruct traffic
- 72.29 Moving vehicle into prohibited position
- 72.30 Parking in alleys
- 72.31 Parking near scene of fire
- 72.32 Passenger and freight loading zones; permits
- 72.33 Bus stops and taxicab stands
- 72.33 Disabled vehicles, warning devices
- 72.35 Parking restricted or prohibited on certain streets

#### *Violations and Enforcement*

- 72.50 Overtime parking
- 72.51 Responsibility of owner and operators
- 72.52 Report of violations
- 72.53 Notice of violation

- 72.54 Use of fines collected
- 72.55 Impoundment of parked vehicles
- 72.99 Penalty

**Cross-reference:**

*Parking and regulations for taxicabs and for-hire trucks, see §§ 116.40 through 116.42*

### **MANNER OF PARKING**

#### **§ 72.01 UNATTENDED VEHICLES.**

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and effectively setting the brake thereon, and when standing upon any perceptible grade, without turning the front wheels into the curb or side of the highway.

(`92 Code, § 72.15) Penalty, see § 72.99

#### **§ 72.02 STANDING OR PARKING CLOSE TO CURB.**

Except as otherwise provided in this chapter every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within 12 inches of the right-hand curb.

(`92 Code, § 72.16) (Ord. 2, passed 4-11-88) Penalty, see § 72.99

#### **§ 72.03 OBEDIENCE TO ANGLE-PARKING SIGNS OR MARKINGS.**

On those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

(`92 Code, § 72.17) (Ord. 2, passed 4-11-88) Penalty, see § 72.99

#### **§ 72.04 PARKING WITHIN MARKED OFF SPACES.**

On any street which is marked off with lines indicating the parking spaces for cars, the same shall be parked between such lines.

(`92 Code, § 72.18) (Ord. 2, passed 4-11-88) Penalty, see § 72.99

**§ 72.05 STOPPING WITH LEFT SIDE OF CAR TO CURB PROHIBITED.**

No vehicle shall stop with its left side to the curb on any improved two-way street.  
(`92 Code, § 72.19) (Ord. 2, passed 4-11-88) Penalty, see § 72.99

**§ 72.06 PARKING SO AS TO INTERFERE WITH POLICE, FIRE AND SANITARY DIVISIONS.**

No vehicle shall be so parked in any private alleys, private roadways or driveways, as to block, interrupt or interfere with the passage of any truck or vehicle of the sanitary, fire or police divisions of the city, servicing the people and such residential, business and industrial property abutting thereon.  
(`92 Code, § 72.20) (Ord. 2, passed 4-11-88) Penalty, see § 72.99

**§ 72.07 MAXIMUM PERMISSIBLE LENGTH OF PARKED VEHICLES.**

It shall be unlawful for any person owning any of the following-described vehicles to knowingly allow or permit same to be parked on any street, where head-in or right angle parking is required: Any automobile, truck, bus or other motor vehicle, the length of which exceeds 16 feet measured from the extreme furthest point on each end of such motor vehicle; provided any motor vehicle barred from parking by this chapter shall be allowed to make temporary stops on such street for the purpose of admitting or discharging passengers, baggage, or drayage, but such stops shall not exceed five minutes at any one time, and during such stops, the motor vehicles shall not be left unattended.  
(`92 Code, § 72.21) (Ord. 2, passed 4-11-88) Penalty, see § 72.99

**§ 72.08 LIGHTS ON PARKED VEHICLES.**

Whenever a vehicle is lawfully parked on a street during the time between one-half hour after sunset and one-half hour before sunrise, and there is sufficient light to reveal any person within a distance of 200 feet upon such street, no lights need be displayed upon such parked vehicle. When, during such times or at any other time, there is not sufficient light upon a street to reveal a person at a distance of 200 feet, a parked vehicle shall be equipped with and shall exhibit lights in accord with G.S. § 20-134.  
(`92 Code, § 72.22) Penalty, see § 72.99

***PARKING REGULATED OR RESTRICTED*****§ 72.25 DESIGNATION AND MARKING OF RESTRICTED AREAS.**

The Chief of Police is hereby authorized to designate streets and alleys or portions thereof, where the parking of vehicles shall be prohibited, limited or restricted, and to erect signs or markings indicating such prohibition, limitation or restriction. It shall be unlawful for any person to park a vehicle in violation of any such sign or marking.

( '92 Code, § 72.01) Penalty, see § 72.99

**§ 72.26 PROHIBITED PLACES; NO SIGNS REQUIRED.**

(A) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk;
- (2) Within an intersection;
- (3) On a crosswalk;
- (4) Within 20 feet of any flashing beacon, stop sign or traffic control signal located at the side of a street or roadway;
- (5) Grade crossing approach. No vehicle shall park on either side of any street leading to a grade crossing, within 50 feet of the closest rail; provided, that where existing permanent structures are located closer than 50 feet, parking may be permitted in front of such structures, unless otherwise prohibited and if such parking does not block the view in either direction of the approach of a locomotive or train;
- (6) Alongside or opposite any street excavation or obstruction, if such stopping, standing or parking would obstruct traffic;
- (7) Upon any bridge or other elevated structure or within any underpass structure.
- (8) On the roadway side of any vehicle stopping, standing or parking at the edge or curb of a street.

(9) Upon the intervening space, physical barrier or clearly indicated dividing section used to divide a street or highway into two or more roadways.

(10) Within any area marked as a fire lane in accordance with the provisions of the General Statutes of North Carolina.

(11) Within any area designated for handicapped parking in accordance with the provisions of the General Statutes of North Carolina, unless the vehicle is driven by or is transporting a person who is handicapped and said vehicle displays a distinguishing license plate, a removable windshield placard, or a temporary removable windshield placard.

(B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

(`92 Code, § 72.35) (Ord. 2, passed 4-11-88; Am. Res. passed 7-12-99) Penalty, see § 72.99

**§ 72.27 UNLAWFUL PARKING.**

(A) No person shall stand, or park, a vehicle upon any street for the principal purposes of:

(1) Displaying it for sale;

(2) Washing, greasing, or repairing such vehicle, excepting repairs necessitated by an emergency;

(3) Storage thereof by garages, dealers or other persons;

(4) Storage of any detached trailer, or van, when the towing unit has been disconnected;

(5) Transferring merchandise, or freight, from one vehicle to another.

(B) No person shall stand or park on any street any vehicle for the primary purpose of advertising.  
(`92 Code, § 72.36) (Ord. 2, passed 4-11-88) Penalty, see § 72.99

**§ 72.28 PARKING NOT TO OBSTRUCT TRAFFIC.**

(A) No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic. (Ord. 2, passed 4-11-88)

(B) No driver shall enter an intersection or a marked crosswalk unless there is a 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.

(`92 Code, § 72.37) Penalty, see § 72.99

#### **§ 72.29 MOVING VEHICLE INTO PROHIBITED POSITION.**

No person shall move a vehicle not owned by such person into any area wherein parking shall be prohibited or away from a curb such distance as is unlawful.

(`92 Code, § 72.38) Penalty, see § 72.99

#### **§ 72.30 PARKING IN ALLEYS.**

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand, or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.

(`92 Code, § 72.39) (Ord. 2, passed 4-11-88) Penalty, see § 72.99

#### **§ 72.31 PARKING NEAR SCENE OF FIRE.**

It shall be unlawful for any person other than one on official business, to park any vehicle within a block where fire apparatus has stopped in answer to a fire alarm.

(`92 Code, § 72.40) Penalty, see § 72.99

#### **§ 72.32 PASSENGER AND FREIGHT LOADING ZONES; PERMITS.**

(A) The Chief of Police shall have authority from time to time to determine, designate and locate passenger loading zones and freight loading zones on the highways, streets and roadways within the town and shall direct and maintain, or cause to be maintained appropriate signs indicating the same. It shall be unlawful for the driver of any vehicle to stop, stand or park such vehicle for any period of time longer than is necessary for the expeditious loading or unloading of passengers or freight in any place marked as a passenger loading zone, and it shall also be unlawful for the driver of any vehicle to stop, stand or park such vehicle for a period of time longer than is necessary for the expeditious loading or unloading of passengers or material in any place marked as a freight loading zone, and in no case shall a stop for loading and unloading of materials exceed the space of 30 minutes, unless specially permitted by a permit issued by the Chief of Police.

(B) The Chief of Police is hereby authorized to issue, in special cases where he deems it necessary, a permit for any vehicle used to transport merchandise or material to park the same back to the curb for the purpose of loading or unloading freight; provided, however, that such permit shall definitely specify the time to be permitted and the driver of such vehicle shall have the permit in his possession at the time and place of loading or unloading.

(`92 Code, § 72.41)

**§ 72.33 BUS STOPS AND TAXICAB STANDS.**

(A) The Chief of Police is hereby authorized to require and establish bus stops and taxicab stands on such public streets, highways and roadways, in such places, and in such number as he shall determine to be of the greatest benefit and convenience to the public. Every such bus stop and taxicab stand shall be designated by an appropriate sign.

(B) It shall be unlawful for the driver of any vehicle, other than a bus, to stand or park in any officially designated bus stop, or for any vehicle, other than a taxicab, to stand or park in an officially designated taxicab stand.

(C) It shall be unlawful for the driver of any bus or taxicab to stand or park upon any highway, street or roadway in the business district in any place other than at an officially designated bus stop or taxicab stand, except that this provision shall not prevent the driver of any such vehicle from temporarily stopping, in accordance with other stopping or parking regulations, at any place for the purpose of, and while actually engaged in loading or unloading passengers.

(`92 Code, § 72.42) Penalty, see § 72.99

**§ 72.34 DISABLED VEHICLES, WARNING DEVICES.**

In the event any motor vehicle shall be or become disabled upon any street in the town, the driver thereof shall display not less than 200 feet in the front and rear of such vehicle, a warning signal, flag or light which shall be clearly visible to any other person using the street. Such warning signals shall be displayed as long as the vehicle shall remain disabled upon the street.

(`92 Code, § 72.43) Penalty, see § 72.99

**§ 72.35 PARKING RESTRICTED OR PROHIBITED ON CERTAIN STREETS.**

(A) The provisions of this section and the schedules in Chapter 73 prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.



(B) The provisions of this section and the schedules in Chapter 73 imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

(C) A change of position of vehicle from one point directly to another point, within the same block, shall be deemed one continuous parking period. The parking period shall be as designated on traffic signs erected within the same block regulating the parking time limit.

(D) When signs are erected in each block giving notice thereof, no person shall park a vehicle for longer than two hours at any time between the hours of 8:00 a.m. and 6:00 p.m. of any day except Sundays and public holidays or upon any of the streets or portions thereof where a sign giving said notice is so posted.

(E) When signs are erected in each block giving notice thereof, no person shall park a vehicle for longer than one hour at any time between the hours of 8:00 a.m. and 6:00 p.m. of any day except Sundays and public holidays or upon any of the streets or portions thereof.

(F) When signs are erected in each block giving notice thereof, no person shall park a vehicle for longer than 15 minutes at any time between the hours of 8:00 a.m. and 6:00 p.m. of any day except Sundays and public holidays or upon any of the street or portions thereof.

(`92 Code, § 72.44) (Ord. 2, passed 4-11-88) Penalty, see § 72.99

### ***VIOLATIONS AND ENFORCEMENT***

#### **§ 72.50 OVERTIME PARKING.**

(A) If any vehicle shall remain parked in any parking space beyond the parking time limit therefor, such vehicle shall be considered as parking overtime and beyond the period of legal parking time. The parking of a vehicle overtime or beyond the period of legal parking time on any part of a street or parking lot where any such parking space is located shall be a violation of this chapter. It shall be unlawful for any person to permit any vehicle to remain or be placed in any parking space when the vehicle has already been parked beyond the period of time prescribed for the parking space.

(B) Any person who shall permit any vehicle to be parked in violation of this chapter or Chapter 73 for more than one permitted time period shall be subject to an additional penalty for each additional time period that such vehicle is illegally parked.

(`92 Code, § 72.75) (Ord. 2, passed 4-11-88)

**§ 72.51 RESPONSIBILITY OF OWNER AND OPERATORS.**

It shall be unlawful for any person to cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked overtime or beyond the period of legal parking time established for any parking zone as described in this code.

(`92 Code, § 72.76) (Ord. 2, passed 4-11-88) Penalty, see § 72.99

**§ 72.52 REPORT OF VIOLATIONS.**

It shall be the duty of police officers or any other employee of the city, acting in accordance with instructions issued by the City Manager, to report:

(A) The number of violations of any provisions of this chapter.

(B) The state license number of such vehicle.

(C) The time during which such vehicle is parking in violation of any of the provisions of this chapter.

(D) Any other facts the knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

(`92 Code, § 72.77) (Ord. 2, passed 4-11-88)

**§ 72.53 NOTICE OF VIOLATION.**

Each police officer or other city employee shall attach to any vehicle which is parked in violation of the provisions of this chapter a notice to the owner or operator thereof that the vehicle has been parked in such violation and instructing such owner or operator to report at the office of the Traffic Clerk of the city in regard to the violation.

(`92 Code, § 72.78) (Ord. 2, passed 4-11-88)

**§ 72.54 USE OF FINES COLLECTED.**

Fines for violations of this chapter are imposed to provide for the proper regulation and control of traffic upon the public streets, and also to provide for the cost of supervision and regulating the parking of vehicles in the parking zones created hereby, and to cover the cost of maintenance and supervision of all street parking facilities.

(`92 Code, § 72.79) (Ord. 2, passed 4-11-88)

**§ 72.55 IMPOUNDMENT OF PARKED VEHICLES.**

Any motor vehicle left parked or standing on any street or other public place in the town in violation of the provisions of this chapter or left standing on any street or other public place in the town for a continuous period of 24 hours or longer may be taken into possession and impounded by the Police Department.

(`92 Code, § 72.80)

**§ 72.99 PENALTY.**

(A) Whoever violates any provision of this chapter for which a fine is not provided, shall be guilty of an infraction punishable by a fine not exceeding \$50. (G.S. § 14-4(b))

(`92 Code, § 72.99)

(B) Violations of the provisions of this chapter shall subject the violator to a fine in the amount of \$10; provided, however that violations of the provisions of § 72.26(A)(10) shall subject the violator to a fine in the amount of \$50 and that violations of the provisions of § 72.26(A)(11) shall subject the violator to a fine in the amount of \$100. (Res. passed 7-12-99)

(C) Each owner or operator of a vehicle parked in violation of this chapter may, within 48 hours of the time when the notice of violation was attached to his vehicle, pay to the Traffic Clerk, or other officer in charge of the clerk's office, as a penalty for and in full satisfaction of such violation the sum as established by ordinance of the Board of Aldermen. The failure of such owner or operator to make such payment within the specified time shall render such owner or operator subject to arrest. Fines to be paid at the town office as specified on ticket. (Ord. 2, passed 4-11-88)

## CHAPTER 73: PARKING SCHEDULES

### Schedule

#### I. Parking time limited

***Cross-reference:***

*Parking regulations, see §§ 116.40 et seq.*

### SCHEDULE I. PARKING TIME LIMITED.

When signs are erected in each block giving notice thereof, no person shall park a vehicle for longer than the time indicated at any time between the hours of 8:00 a.m. and 6:00 p.m. of any day except Sundays and public holiday or upon any of the streets or portions thereof.

<i>Street</i>	<i>Location</i>	<i>Time Limit</i>	<i>Ord. No.</i>	<i>Date</i>
Everett Street		2 hours	2	Passed 4-11-88; Am. Ord. passed 11-5-90
Main Street		2 hours	2	Passed 4-11-88; Am. Ord. passed 11-5-90
	In front of the banks	15 minutes	2	Passed 4-11-88
	In front of the Chamber of Commerce	15 minutes	2	Passed 4-11-88
	In front of Town Hall	15 minutes	2	Passed 4-11-88

Penalty, see § 72.99



## CHAPTER 90: ABANDONED VEHICLES

### Section

- 90.01 Definition
- 90.02 Duty of motor vehicle owner
- 90.03 Impoundment
- 90.04 Notice to registered owner; sale of unredeemed vehicle
- 90.05 Disposition of proceeds of sale
- 90.06 Junked vehicles
- 90.07 Disclaimer of liability
- 90.08 Exceptions

### § 90.01 DEFINITION.

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

**ABANDONED VEHICLE.** A vehicle shall be deemed to have been abandoned for the purposes of this chapter in the following circumstances:

- (1) It has been left upon a street or highway in violation of a law or ordinance prohibiting parking;
- (2) The vehicle fails to display a current license plate;
- (3) It is partially dismantled or wrecked;
- (4) It is incapable of self-propulsion or being moved in the manner for which it was originally intended;
- (5) It is left on property owned or operated by the town for a period of 24 hours or longer;
- (6) It is left on private property without the consent of the owner, occupant, or lessee thereof for a period of two hours or longer; or

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(7) It is left on any public street or highway of this town for a period of seven days or longer.  
(`92 Code, § 80.01)

**§ 90.02 DUTY OF MOTOR VEHICLE OWNER.**

It shall be unlawful for any period of time to abandon a vehicle falling within the definition contained in § 90.01. No person shall leave or allow to remain any abandoned, junked, or otherwise discarded vehicle on property under his control. If a motor vehicle is abandoned on a public street or upon property owned or operated by the town, it shall be the duty of the owner of such vehicle, after due notice, to cause the removal of such vehicle immediately and to pay all costs incident to such removal.

(`92 Code, § 80.02)

**§ 90.03 IMPOUNDMENT.**

When any motor vehicle is abandoned on the public streets or public grounds of the town or is abandoned upon privately owned property without the permission of the owner, lessee, or occupant thereof, any such vehicle may be removed for safekeeping by or under the direction of a police officer or other officer designated by the Town Clerk, to a storage garage or area. However, no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee, or occupant of the premises unless the same has been declared by the Board of Aldermen to be a health or safety hazard. When such a vehicle is removed from privately owned property at the request of the owner, lessee, or occupant thereof, the person at whose request such vehicle is removed shall be required to pay or otherwise indemnify the town against loss or expense incurred by reason of the removal, storage, or sale thereof.

(`92 Code, § 80.03)

**§ 90.04 NOTICE TO REGISTERED OWNER; SALE OF UNREDEEMED VEHICLE.**

(A) The designated official or the police officer in charge of directing the removal of such vehicle shall make a diligent search to ascertain the identity or whereabouts of the owner of said vehicle. Such search shall include an inquiry directed to the State Department of Motor Vehicles. Written notice by mail of such removal shall be promptly given to the registered owner of the vehicle, if his identity is known. Said owner may regain possession of such vehicle upon the payment to the town of all reasonable costs incidental to the removal, storage, and locating the owner of the vehicle.

(B) Should such owner fail or refuse to pay the costs, or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made and after notice to him at his last known address and to the holder of any lien of record in the office of the Department of Motor Vehicles against the vehicle, the designated law enforcement officer of the Police Department may, after holding the vehicle for 30 days, and after having the value of such vehicle determined by three disinterested automobile dealers or garagemen, and after 20-days' notice has been given to the Department of Motor Vehicles before the date of sale, dispose of the same by public or private sale, or in the event of an appraised value of less than \$50, by other means in the discretion of the Board of Aldermen, and the proceeds of any sale shall be forwarded to the Town Clerk.

(^92 Code, § 80.04)

#### § 90.05 DISPOSITION OF PROCEEDS OF SALE.

The Town Clerk shall pay from the proceeds of any sale, the cost of removal, storage, investigation as to ownership and sale, and liens, in that order. If after the sale, the ownership thereof at the time of removal is established satisfactorily by the person claiming such ownership, he shall be paid so much of the proceeds from the sale as remains after paying the costs designated above, and including any liens on said vehicle. However, if the owner cannot be ascertained, any remaining proceeds shall be deposited to the General Fund of the town.

(^92 Code, § 80.05)

#### § 90.06 JUNKED VEHICLES.

(A) *Defined.* Whenever a vehicle is found to be an abandoned motor vehicle as defined in § 90.01 and, in addition, is found to be inoperable, dismantled, or damaged, five years old or older, and worth less than \$100, such abandoned vehicle shall be deemed to be a **JUNKED VEHICLE**.

(B) *Removal.* A junked motor vehicle may be removed from any public or private property under the direction of an official designated by the Town Clerk or a designated member of the Police Department to a storage area or garage, provided that no such vehicle shall be removed from private property without the written request of the owner, occupant, or lessee of the property on which the vehicle is located, unless the same has been declared a health or safety hazard by the town.



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(C) *Notice to owner.* The Board of Aldermen shall take no action nor shall they adopt a resolution declaring a motor vehicle located on private property to be abandoned or a safety or health hazard unless at least ten days prior to the date on which the Board shall consider such action or resolution a notice shall have been personally served upon the registered owner of said motor vehicle if his name can be ascertained. If the name of the registered owner cannot be ascertained, said notice shall be given to the owner of the property upon which the vehicle is located. Said notice shall advise of the time and place of the meeting at which the resolution shall be considered, and shall state that the person to whom the notice is directed shall have the right to appear at said meeting and be heard. Further, the notice shall be given by registered mail, return receipt requested, in lieu of personal service; however, in the event said person entitled to notice is unknown, or known and his whereabouts are unknown, or is a nonresident of this state, then said notice shall be deemed adequate if a copy is posted on the premises and published in a newspaper having a general circulation in the town at least five days prior to the date set for the hearing.

(D) *Payment of expenses of removal.* When a junked motor vehicle is removed from private property at the request of the owner, occupant, or lessee thereof, the person at whose request such vehicle is removed from privately owned property shall pay or otherwise indemnify the town against any loss or expense incurred by reason of the removal, storage, sale, or destruction of said vehicle. Any junked vehicle so removed shall be held at least 15 days.

(E) *Reclamation by owner.* The owner of any such junked motor vehicle may reclaim the vehicle during the 15-day retention period by exhibiting proof of ownership to a designated official or a designated officer of the Police Department and paying all reasonable costs incident to the removal and storage of the vehicle and administrative expenses.

(F) *Disposition of unclaimed vehicle.* If, after holding the vehicle for 15 days, it remains unclaimed, said vehicle may be destroyed or otherwise disposed of as provided by ordinance or resolution of the Board of Aldermen. Any proceeds derived from the disposition of a junked motor vehicle shall be retained for deposit in the General Fund. The designated officer referred to herein shall give notice within 15 days after final disposition to the State Department of Motor Vehicles that such vehicle has been deemed a junked motor vehicle and has been disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can reasonably be determined.

(`92 Code, § 80.06)

**§ 90.07 DISCLAIMER OF LIABILITY.**

No person duly acting in accordance with the provisions of this chapter shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost, or stolen vehicle, for the removal or disposition of such vehicle in accordance with the provisions of this chapter.

(`92 Code, § 80.07)

**§ 90.08 EXCEPTIONS.**

Nothing contained in this chapter shall be construed to apply to any vehicle in an enclosed building; a vehicle on the premises of a business enterprise being operated in a lawful place and manner which vehicle is necessary to the operation of said business; or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner.

(`92 Code, § 80.08)



## CHAPTER 91: ANIMALS

### Section

- 91.01 Definitions
- 91.02 Authority and responsibility
- 91.03 Animals creating nuisance prohibited
- 91.04 Impoundment
- 91.05 Notice to owner or keeper
- 91.06 Redemption by owner or keeper generally
- 91.07 Destruction or adoption of unredeemed animal generally
- 91.08 Compliance with rabies laws; vaccination
- 91.09 Non-domestic animals
- 91.10 Bird sanctuary

- 91.99 Penalty

### § 91.01 DEFINITIONS.

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

**ANIMAL.** Every living creature, domestic or non-domestic, but does not include humans.

**ANIMAL SHELTER.** Any premises designated by the town for the purpose of impounding and caring for animals.

**AT LARGE.** An animal shall be deemed to be at large when it is off the property of its owner or keeper and not under physical restraint.

**IMPOUNDMENT.** Any animal in custody of a person or animal shelter duly authorized by the Board of Aldermen of the town.

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**KEEPER.** A person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

**NUISANCE.** An animal or group of animals shall be considered a nuisance if it:

- (1) Damages, soils or defiles private or public property;
- (2) Interferes with, molests or attacks persons or other animals;
- (3) Is repeatedly at large;
- (4) Causes unsanitary, dangerous or offensive conditions including fouling of the air by odors;
- (5) Chases, snaps at, harasses or impedes pedestrians, bicyclists or vehicles;
- (6) By virtue of number or type is offensive or dangerous to the public health, safety or welfare; or
- (7) Is diseased or dangerous to the public health.

**OWNER.** A person having the right of property in an animal.

**PERSON.** Any individual, corporation, partnership, organization or any institution commonly recognized by law as a unit.

**RESTRAINT.** Any animal shall be considered under restraint if it is within the real property limits of its owner or secured by a leash or lead, or confined.

**STRAY.** Any domestic animal not under restraint and found off the property of its owner or keeper.  
(Ord. passed 1-28-94)

**§ 91.02 AUTHORITY AND RESPONSIBILITY.**

(A) The Board of Aldermen does hereby establish an animal control program and shall employ animal control officers and such other employees or contract with such other agencies as may be determined necessary to effectuate an animal control program.

(B) The employees or contractors of the animal control program shall:

(1) Have responsibility, along with law enforcement agencies, to enforce all laws of the State of North Carolina and all ordinances of the town pertaining to animals and shall cooperate with all law enforcement officers within the town in fulfilling this duty.

(2) Be responsible for the seizure and impoundment, where deemed necessary, of any dog or other animal in the town involved in a violation of this chapter or state law.

(3) Be empowered to issue notices of violation of this chapter.  
(Ord. passed 1-28-94)

**§ 91.03 ANIMALS CREATING NUISANCE PROHIBITED.**

(A) It shall be unlawful for an owner or keeper to permit an animal or animals to create a nuisance or to maintain a nuisance created by an animal or animals. Compliance shall be required as follows:

(1) When an animal control officer, law enforcement officer or person authorized by the Board of Aldermen observes a violation, the owner or keeper will be provided written notification of such violation and be given 48 hours from the time of the notification to abate the nuisance.

(2) Upon receipt of a written, detailed and signed complaint being made to the town about any person or persons to the effect that any other person is maintaining a nuisance as defined in this chapter, an animal control officer, a law enforcement officer or a person duly authorized by the Board of Aldermen shall cause the owner or keeper of the animal or animals in question to be notified that a complaint has been received and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing.

(3) If the written findings indicate that the complaint is justified then the animal control officer, law enforcement officer or person designated by the Board of Aldermen shall cause the owner or keeper of the animal or animals in question to be so notified in writing and ordered to abate such nuisance within 48 hours.

(4) Any notice required to be given hereunder may, in the event the owner or keeper of the animal or animals is unknown and cannot be ascertained, be provided along with a general description of the animal or animals by posting the same for 48 hours at the county courthouse and at the place where the nuisance is occurring.

(B) It shall be unlawful for a person to fail or refuse to abate the nuisance as required by this chapter.  
(Ord. passed 1-28-94) Penalty, see § 91.99

AMENDMENT TO TOWN ORDINANCES

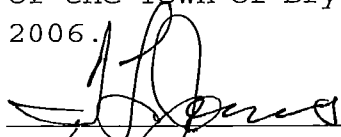
Section 91.03 of the Town of Bryson City Code of Ordinances is hereby amended to add the following subsection:


(C) Following receipt of a Notice of Violation(s) by an animal's owner or keeper, any additional or repeated violations of this Chapter shall be construed as a failure or refusal to abate the nuisance as required by §91.03(B). These additional or repeated violations shall subject the owner or keeper to any and all penalties set out in §91.99.

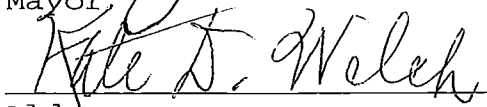
Section 91.99 of the town of Bryson City Code of Ordinances is hereby amended to add the following subsection:

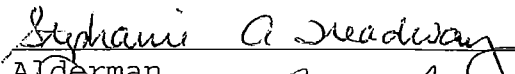
(C)(3) The civil penalty for the initial violation of this Chapter is \$25.00. Additional or repeated violations of this Chapter shall subject the offender to a civil penalty of \$75.00 per violation. The civil penalty shall be paid within 72 hours from and after the issuance of the Notice referenced above.

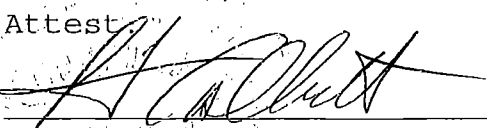
PASSED AND ADOPTED by unanimous vote of the Board of Aldermen of the Town of Bryson City on this the 10<sup>th</sup> day of February, 2006.

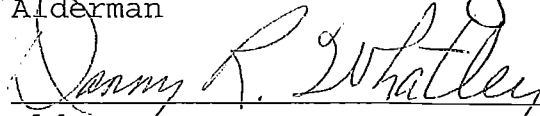
  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Alderman

  
\_\_\_\_\_  
Alderman

  
\_\_\_\_\_  
Alderman

Attest  
  
\_\_\_\_\_  
Town Clerk

  
\_\_\_\_\_  
Alderman

**§ 91.04 IMPOUNDMENT.**

(A) Any animal which appears to be lost, stray or unwanted may be seized, impounded and confined in a humane manner in an animal shelter.

(B) Impoundment of such animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this chapter.

(Ord. passed 1-28-94)

**§ 91.05 NOTICE TO OWNER OR KEEPER.**

(A) Upon impounding an animal, notice of such impoundment shall be posted for a minimum of 72 hours beginning with the time the animal enters the animal shelter and prior to the time the animal is disposed of. Reasonable effort shall be made to identify the owner or keeper and inform such owner or keeper of the conditions whereby the animal may be redeemed.

(B) Such notice shall be prominently displayed on a bulletin board at the animal shelter and the time and place of the taking of such animal together with the time and date of posting the notice shall be stated therein.

(Ord. passed 1-28-94)

**§ 91.06 REDEMPTION BY OWNER OR KEEPER GENERALLY.**

(A) The owner or keeper of an animal impounded under this chapter may redeem the animal and regain possession thereof within 72 hours after notice of impoundment is posted as required by this chapter and complying with all applicable provisions of this chapter and by paying such fees as may from time to time be established by the Board of Aldermen.

(B) No owner or keeper may be permitted to adopt his own animal under the provisions of this ordinance, but he must comply with the provisions of this chapter in order to reclaim an animal that has been impounded pursuant to this chapter.

(Ord. passed 1-28-94)

**§ 91.07 DESTRUCTION OR ADOPTION OF UNREDEEMED ANIMAL GENERALLY.**

(A) If an impounded animal is not redeemed by the owner or keeper within the period prescribed above, it may be destroyed in a humane manner or shall become the property of the animal shelter and offered for adoption to a responsible adult who is willing to comply with this chapter.



(B) Unless proof of a current rabies vaccination can be furnished, every person who either adopts or redeems a dog or cat at the animal shelter will be given a "proof of rabies vaccination notice" at the time of the redemption or adoption. This notice shall state a date by which the animal redeemed or adopted must be vaccinated for rabies. The date so stated shall be not less than 72 hours from the date of the adoption or redemption, exclusive of weekends and holidays. In the event the "proof of rabies vaccination notice" is not returned by the animal owner or keeper to the animal shelter completed by a veterinarian with the date of vaccination, then and in that event the animal shelter shall report the failure to the Swain County Health Department and to any law enforcement officer who may be charged with the responsibility of enforcing the laws of the State of North Carolina relating vaccination against rabies.

(Ord. passed 1-28-94)

### § 91.08 COMPLIANCE WITH RABIES LAWS; VACCINATION.

#### (A) *Compliance with state rabies laws.*

(1) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

(2) It is the purpose of this chapter to supplement the state law by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

#### (B) *Vaccination of dogs, cats and other pets.*

(1) It shall be unlawful for the owner or keeper to fail to provide current vaccination against rabies (hydrophobia) for any dog or cat four months of age or older.

(2) A rabies vaccination shall be deemed "current" if two vaccinations have been given one year apart and booster doses of rabies vaccine administered every three years thereafter.

#### (C) *Vaccination tag and certificate.*

(1) Upon compliance with the provisions of the foregoing section of this chapter, there shall be issued to the owner or keeper of the dog or cat vaccinated a rabies tag, stamped with a number and the year for which issued, and a rabies vaccination certificate.

(2) It shall be unlawful for any dog or cat owner or keeper to fail to provide to fail the dog or cat with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times.

**Bryson City - General Regulations**

(3) In addition to all other penalties prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of this chapter if the dog or cat is found not to be wearing a currently valid rabies tag.

(4) It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one using the tag.

(Ord. passed 1-28-94) Penalty, see § 91.99

**§ 91.09 NON-DOMESTIC ANIMALS.**

No person shall possess or harbor any non-domestic animal or animals which are dangerous to persons or property or which have the potential of being dangerous to persons or property. This section does not apply to bonafide circuses, petting zoos and other traveling commercial animal exhibitions of limited duration.

(Ord. passed 1-28-94) Penalty, see § 91.99

**§ 91.10 BIRD SANCTUARY.**

The entire area within the corporate limits of the town shall be, and the same is hereby designated and established as a bird sanctuary. No person shall hunt, kill, trap or decoy birds or rob their nests of eggs or young in the town. It shall also be unlawful for any person to shoot at any bird with a gun, pistol, "BB" gun, air rifle, slingshot, or other instrument of the like or kind, or strike or throw any object at a bird.

('92 Code, § 81.07) Penalty, see § 91.99

**§ 91.99 PENALTY.**

(A) Violation of any provision of this shall be a misdemeanor and any person convicted of such violation is punishable as provided in G.S. § 14-4. Each days' violation of this chapter is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes or fees imposed under this chapter.

(B) In addition, enforcement of this chapter may be made by appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. § 160A-175(d) and (e).

(C) In addition to and not in lieu of the criminal penalties and other sanctions provided in this chapter, a violation of this chapter may also subject the offender to the civil penalties hereinafter set forth.

(1) Such penalties may be recovered by the town in a civil action in the nature of debt or may be collected in such other amounts as prescribed herein within the prescribed time following the issuance of notice of such violation.

(2) Such notice shall, among other things:

(a) State upon its face the amount of the penalty if such penalty be paid within 72 hours from and after the issuance of the notice and the late fee if paid more than 72 hours after its issuance;

(b) Notify such offender that a failure to pay the penalties within the prescribed time shall subject such offender to a civil action in the nature of debt for the stated penalty plus an additional penalty in the amount of \$25 together with the costs of the action to be taxed by the court;

(c) Further provide that such offender may answer the notice by mailing the notice and stated penalty to the Board of Aldermen or by making payment to the town and that upon payment, such case or claim and right of action will be deemed compromised and settled;

(d) That such penalties must be paid within 72 hours from the issuance of such notice. Such notice shall further state that if such notice of violation is not paid within the 72-hour period, court action by the filing of a civil complaint for collection of such penalty may be taken.

(3) The civil penalty for violation of this chapter is \$25. The civil penalty shall be paid within 72 hours from and after the issuance of the notice referred to above.

(4) The notice of violation referred to herein may be delivered to the person violating the provisions of this chapter in person or may be mailed to the person at his last known address.  
(Ord. passed 1-28-94)



## CHAPTER 92: FIRE PREVENTION

### Section

- 92.01 Purpose; title
- 92.02 Application of provisions
- 92.03 Conflict with State Building Code
- 92.04 Fire Marshal Board
- 92.05 Employees
- 92.06 Fees
- 92.07 Budget
- 92.08 Withdraw from participation
- 92.09 Duties of Fire Marshal
- 92.10 Order to remedy violation
- 92.11 Records and reports
- 92.12 Warning signs regarding hazardous materials
- 92.13 Repeated false alarms; fine
  
- 92.99 Penalty

### § 92.01 PURPOSE; TITLE.

(A) This chapter is an ordinance to provide Swain County and Bryson City with rules and regulations to improve public safety by promoting the control of fire hazards; regulating the installment, use and maintenance of equipment; regulating the use of structures, premises and open areas; providing for the abatement of fire hazards; establishing the responsibilities and procedures for code enforcement; and setting forth the standards for compliance and achievement of these objectives.

(B) This chapter shall be known as the Swain County/Bryson City Fire Prevention Ordinance (hereinafter "chapter"). This chapter adopts by reference Volume V of the North Carolina Building Code, and its incorporated standards and codes as published in the Building Code. The same are hereby adopted and incorporated as fully as if set out verbatim herein. Not less than one copy of the adopted standards and codes shall be filed in the office of the Swain County Fire Marshal (hereinafter "Fire Marshal") and the provisions thereof shall be controlling within Swain County and the Town of Bryson City.

(Ord. passed 7-1-00)

**§ 92.02 APPLICATION OF PROVISIONS.**

This chapter shall apply equally to both public and private property, and all structures and their occupancies, except as otherwise specified; and shall be liberally construed as an exercise of the police powers of Swain County and the Town of Bryson City.

(Ord. passed 7-1-00)

**§ 92.03 CONFLICT WITH STATE BUILDING CODE.**

Where a conflict exists between this chapter and the requirements of the State Building Code, the requirements of the State Building Code shall prevail.

(Ord. passed 7-1-00)

**§ 92.04 FIRE MARSHAL BOARD.**

(A) A Fire Marshal Board (hereinafter "Board") is hereby created and shall establish policies for the Fire Marshal program. The Board shall consist of three members: one member being a Swain County Commissioner appointed by the Board of Commissioners; one member being a Town of Bryson City Board Member appointed by the Board of Aldermen; and the third member shall be appointed by the existing Board of Commissioners appointee and Board of Aldermen appointee as set forth herein. The term of the Commissioner Board member and the Alderman Board Member appointed to the Board shall be for one year and which term shall run concurrently with the fiscal year for Swain County; the term of the member appointed by the Commissioner Board member and the Alderman Board member shall expire on the date the Commissioner Board member and the Alderman Board members' term expires.

(B) No Board member shall serve more than two consecutive terms. Notwithstanding the previous sentence, the limitation on consecutive terms does not apply to the Commissioner Board member and the Aldermen Board member, if those members are members of the Board of Commissioners or Board of Aldermen at the time of reappointment.

(C) Appointments to fill vacancies shall be made in the manner set out herein above and all such appointments shall be for the remainder of the former member's term of office and shall not constitute a term for the purpose of the preceding paragraph.

(D) The Board shall have the following duties and responsibilities:

(1) To select the Fire Marshal according to the merit system rules of the State Personnel Commission;

(2) To advise county and municipal authorities in developing policies and plans to improve the fire safety conditions of the community;

(3) To consult with the Fire Marshal about problems relating to his office, and to assist him in planning budgets for the Fire Marshal program;

(4) To transmit or present the budgets of the Fire Marshal and the administration of the program to the Board of Commissioners and Board of Aldermen as set forth herein;

(5) To have such other duties and responsibilities as the General Assembly, Board of Commissioners, and Board of Aldermen may assign to it.

(E) Board members must be residents of Swain County and may be terminated by agreement of the Swain County Board of Commissioners and Town of Bryson City Board of Aldermen "for cause."

(F) The Board shall meet at least once every quarter, or more often if a meeting is called by the chairman, or as set forth in the succeeding paragraph. Such Board shall elect a chairman from its members at its first quarterly meeting after the commencement of its fiscal year, and the chairman shall serve a term of one year or until a new chairman is elected by the Board.

(G) A majority vote of the Board members will control on any action to be taken by the Board. Further, the Chairman or any two Board members may call a special meeting for Board business with at least 24 hours' written notice to the Board members.

(Ord. passed 7-1-00)

#### § 92.05 EMPLOYEES.

The Fire Marshal and any other employees to be employed in the Fire Marshal program shall be Swain County employees for purposes of compensation and benefits, but shall be under the control of the Board for all other purposes, including but not limited to: employment, termination of employment, disciplinary actions, and supervision.

(Ord. passed 7-1-00)

**§ 92.06 FEES.**

The Board shall have the right to set fees under authority of this chapter, including fees for permits, certificates, approvals and other functions performed under this chapter. Upon adoption of a fee schedule, the fee shall accompany each application for permit, approval, certificate, or other fee related code provision. No fee shall be charged for any function unless specifically adopted by the Board. Fees collected under the authority of this section are to be deposited to the account of Swain County so that they may be expended as authorized by budgetary approvals. The Board shall report at least semi-annually to the Swain County Board of Commissioners and the Town of Bryson Board of Aldermen as to receipts received under this chapter. Fees collected under this section shall not be used to replace any other funds, either state or local, for the program for which the fees were collected.

(Ord. passed 7-1-00)

**§ 92.07 BUDGET.**

(A) The budget for the Fire Marshal shall be developed and approved by the Board and presented to the Board of Commissioners and the Board of Aldermen at least 90 days prior to the end of the current fiscal year and the Board of Commissioners and the Board of Aldermen shall approve or disapprove said budget presented by the Board at least 30 days prior to the end of the current fiscal year.

(B) The approved budget for the Fire Marshal program shall be paid as follows:

(1) Seventy percent by County of Swain; and

(2) Thirty percent by the Town of Bryson City.

(Ord. passed 7-1-00)

**§ 92.08 WITHDRAW FROM PARTICIPATION.**

Swain County and/or the Town of Bryson City may withdraw from participation in this Joint Ordinance at the end of any fiscal year, but must elect to do so 45 days or more prior to the beginning of the subsequent fiscal year. The withdrawing governmental entity must provide written notice of its intention to withdraw to the remaining governmental entity 45 days or more prior to the beginning of the subsequent fiscal year.

(Ord. passed 7-1-00)



**§ 92.09 DUTIES OF FIRE MARSHAL.**

(A) The Fire Marshal, or designee, shall be responsible for the enforcement of this chapter and all laws and ordinances covering the following:

- (1) The prevention of fires;
- (2) The storage, sale and use of combustible, flammable or explosive materials;
- (3) The installation and maintenance of automatic and other fire alarm systems, and fire extinguishing equipment;
- (4) The maintenance and regulation of fire escapes;
- (5) The means and adequacy of exit in case of fire from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheaters;
- (6) The investigation of the cause, origin, and circumstances of fires;
- (7) The maintenance of fire cause and loss records; and
- (8) The coordination of resources for all Fire Departments in Bryson City and Swain County.

(B) The Fire Marshal, or designee, shall prepare instructions and forms for the reports required by this chapter.

(C) The Fire Marshal, or designee, which designee shall be the Incident Commander on structural fires, shall investigate the cause, origin, and circumstances of every fire occurring within the jurisdiction of this chapter by which property has been destroyed or damaged, and so far as possible, shall determine whether the fire is the result of carelessness or design. Such investigations shall begin immediately upon the occurrence of such fire. The Fire Marshal, or designee, is empowered by this chapter to take possession of any evidence relevant to the fire. Every fire shall be reported in writing to the Fire Marshal's office within 30 days from the day of the occurrence or activity by the Fire Department primarily responsible for fire protection in the area where such fire has occurred. Such report shall be in the form prescribed by the Fire Marshal. Nothing in the section shall prevent the Fire Chief or designee from investigating any fire occurring within his or her jurisdiction.

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(D) The Fire Marshal, or designee, shall inspect all premises on a periodic basis for compliance with this chapter and other fire prevention regulations as follows:

Semi-annual	Public Schools
Annual	Non-public Schools, Day Cares, Foster Homes, Family Care Homes, Hazardous, Institutional
Every Two Years	Industrial, Educational, Business, Mercantile and Storage
Every Three Years	Churches and Synagogues

(Ord. passed 7-1-00)

**§ 92.10 ORDER TO REMEDY VIOLATION.**

(A) Whenever any Fire Marshal or designee shall find in any building, or upon any premises or other places, combustible or explosive matter or dangerous accumulations of waste paper, boxes, shavings, or any highly flammable materials, and which is so situated as to endanger property; or shall find obstructions to or on fire escapes, stairs, passageways, doors, windows, likely to interfere with operations of a fire department or egress of occupants; of any violation listed in the Fire Code of the North Carolina Building Code, the inspector shall order the remediation of same.

(B) Any owner or occupant may appeal the order to the North Carolina Building Code Council through the procedure provided for by the North Carolina Building Code. The service of any such order may be made upon the occupant of the premises to whom it is directed, either by delivering a copy to such occupant personally, or by leaving it with any person in charge of the premises of suitable age and discretion, or if no such person is found upon the premises, by affixing a copy thereof in a conspicuous place or on the door to the entrance of said premises. Where the order cannot be served either by delivering to or leaving with the person a copy of the order, or if the owner is absent from the jurisdiction of the officer issuing the order, the order may be served by certified mail, return receipt requested, to the owner's last known address.

(Ord. passed 7-1-00) Penalty, see § 92.99

**§ 92.11 RECORDS AND REPORTS.**

(A) The Fire Marshal shall maintain a record of all fires and facts concerning the same, including injuries, deaths, rescue of persons and statistics as to the extent of such fires and the damage caused thereby, and whether such losses were covered by insurance, and if so, in what amount. Such records shall be made daily from the reports made by the technical inspectors under the provisions of this chapter. All such records shall be public.

(B) The Fire Marshal shall submit a quarterly report of activities to the Board, which shall contain all proceedings under this chapter and any recommendations for amendments which the Fire Marshal deems appropriate. The Board shall submit semi-annual reports of the Fire Marshal and Board's activities to the Swain County Board of Commissioners and Town of Bryson City Board of Aldermen. (Ord. passed 7-1-00)

#### **§ 92.12 WARNING SIGNS REGARDING HAZARDOUS MATERIALS.**

The Fire Marshal may require warning signs wherever hazardous materials are stored, processed, or handled. Such warning signs shall be conspicuously lettered in accordance with National Fire Prevention Association 704, Identification of the Fire Hazards of Materials; however, nothing in this section shall be held in conflict with G.S. §§ 95-173 *et seq.* (Ord. passed 7-1-00)

#### **§ 92.13 REPEATED FALSE ALARMS; FINE.**

Repeated false alarms due to alarm malfunctions, improper care of fire protection equipment or testing of systems may result in a fine not to exceed \$100 per alarm under authority of this chapter. (Ord. passed 7-1-00)

#### **§ 92.99 PENALTY.**

A violation of this chapter shall be a misdemeanor punishable by a fine of not more than \$50 or by imprisonment for not more than 30 days or by both such fines and imprisonment. The imposition of a penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue. Also such persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. Proof of such unlawful act or failure shall be deemed prima facie evidence that such act is that of the owner or other person in control of the premises. Prosecution or lack thereof by either the owner occupant or person in charge shall not be deemed to relieve any of the others.

(B) Any owner or occupant failing to comply with such order within the time period set forth in § 92.10 shall be subject to a penalty of \$100 for each violation that endangers "Life Safety" and a \$25 penalty for each other violation. A violation endangers "Life Safety" if it is of such a nature as to endanger the life or limb of any person. Any violation that is not corrected within seven days of the imposition of a penalty as provided herein, shall be deemed a continuing violation and the owner or occupant shall thereafter be subject to the specified penalty for each day the violation continues. (Ord. passed 7-1-00)



## CHAPTER 93: NUISANCES

### Section

- 93.01 Conditions constituting nuisance
- 93.02 Abatement
- 93.03 Enforcement by County Health Officer

### § 93.01 CONDITIONS CONSTITUTING NUISANCE.

The following specified conditions, among others, constituted a nuisance condition. However, the following conditions are not to be deemed an exclusive list.

(A) *Stagnant water.* It shall be unlawful for any person to allow stagnant water to accumulate or stand in ponds, holes, ditches, vats, or the like, upon any lot or premises so as to be detrimental to health. Such stagnant water shall be subject to abatement as a nuisance.

(B) *Cleanliness of premises.* Any person who permits any house, building, yard, lot, or any other part of the premises under his control to become so filthy as to be injurious to health, shall be guilty of an offense, and such condition shall be subject to abatement as a nuisance.

(C) *Cutting of weeds and removal of accumulations.* It shall be unlawful and shall constitute a nuisance for any person to allow weeds, grass, or vegetation to grow on any premises or vacant lot in the town to a height that is unsightly or creates an unsanitary condition.

(D) *Allowing dead animals to remain on property.* It shall be unlawful and is hereby declared to be a nuisance for any person to allow a dead carcass of any animal to remain upon any property longer than 15 hours.

(E) *Sweeps refuse onto streets, sidewalks, alleys.* It shall be unlawful and is hereby declared to be a nuisance for any person to sweep or otherwise convey from a dwelling, store, office, or any other place, any litter or garbage into any street, sidewalk, or alley in the town.

(F) *Slaughterhouses prohibited.* It shall be unlawful for any person to engage in business as an abattoir or to conduct any slaughtering operations in the town.

(`92 Code, § 83.01) Penalty, see § 10.99

**§ 93.02 ABATEMENT.**

(A) Whenever a nuisance shall exist on any premises in the town, the Chief of Police shall give notice to the owner or occupant of the premises of the existence of the nuisance and shall direct that the nuisance be abated. It shall be unlawful for any person receiving a notice to abate a nuisance given pursuant to this section to fail to start abatement of the nuisance within 24 hours after the notice is given.

(B) In the event the owner or occupant of the premises shall fail to abate a nuisance on his premises after having been given notice pursuant to division (A), the town may abate the nuisance and the costs of abatement shall be certified to the Tax Collector and collected as taxes.

(`92 Code, § 83.02) Penalty, see § 10.99

**§ 93.03 ENFORCEMENT BY COUNTY HEALTH OFFICER.**

(A) The County Health Officer is authorized to enforce all laws adopted by the town pertaining to the health of the citizens of the town.

(B) It shall be unlawful for any reason to interfere with or resist the County Health Officer or his duly authorized agents or assistants in the performance of any of their duties.

(C) The County Health Officer and his duly appointed assistants shall have the right to enter any building or any premises at all reasonable times to ascertain whether conditions are sanitary and to enforce the sanitation laws of the town.

(`92 Code, § 83.03) Penalty, see § 10.99

## CHAPTER 94: STREETS AND SIDEWALKS

### Section

#### *General Provisions*

- 94.01 Board approval of new streets
- 94.02 Regulation of awnings
- 94.03 Riding bicycles, skates and skateboards on sidewalks

#### *Excavation and Repair*

- 94.15 Excavations; permit required
- 94.16 Application; fees
- 94.17 Street repair; after excavation
- 94.18 Excavations; leaving unprotected
- 94.19 Streets not to be damaged by tractors or harrows
- 94.20 Sidewalk construction
- 94.21 House moving
- 94.22 Damage to town property
- 94.23 Driveways; permit required

#### *Parades and Demonstrations*

- 94.35 Permit required
- 94.36 Application
- 94.37 Authority of officer to determine whether minors may participate
- 94.38 Findings prerequisite to issuance of permit
- 94.39 Terms and conditions
- 94.40 Grounds for denial
- 94.41 Conduct of persons engaged in demonstrations
- 94.42 Duty of designated demonstration leader

**GENERAL PROVISIONS****§ 94.01 BOARD APPROVAL OF NEW STREETS.**

Before any new street offered for dedication to the town is accepted as such, and officially recognized as a town-maintained street, the Board must give its approval, finding that the street complies with engineering standards set by the Board, and that the best interests of the town would be served by accepting the street as a town street.

(`92 Code, § 40.01)

**§ 94.02 REGULATION OF AWNINGS.**

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

(1) **AWNING.** Any shelter, cover, or other object placed, erected or extending over any street or sidewalk.

(2) **PERSON.** Any individual, firm, co-partnership, association, corporation, or the title holder or holders of property adjoining any street or sidewalk within the corporate limits of the town.

(3) **STREET or SIDEWALK.** 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 the purposes of a walkway or vehicular traffic, and shall include any highway, street, road, alley, driveway, or sidewalk open to the use of the public as a matter of right for the purpose of vehicular traffic or a walkway, but is not limited thereto.

(B) No person shall construct, erect, place, or permit an awning to be placed or maintained at a height of less than seven feet over any street or sidewalk within the corporate limits of the town.

(C) It shall be the duty of the Police Department to enforce the provisions of this section.  
(`92 Code, § 40.02) (Ord. passed 5-5-50) Penalty, see § 10.99

**§ 94.03 RIDING BICYCLES, SKATES AND SKATEBOARDS ON SIDEWALKS.**

It shall be unlawful for any person to ride a bicycle, skates, or skateboards upon the sidewalks within the corporate limits of the town.

(Ord. passed 8-3-87) Penalty, see § 10.99



**EXCAVATION AND REPAIR****§ 94.15 EXCAVATIONS; PERMIT REQUIRED.**

No person shall make any excavation or opening or dig any ditch, trench, tunnel, or hole in, along, across, or under any street, sidewalk, or other public place for the purpose of laying or placing therein any pipe, wires, or poles or for any other purposes unless a written permit therefor has been issued by some officer of the town vested with proper authority, provided, that a permit shall not be required where the work is performed under a contract with the town, but in the event the work requires a sidewalk or street to be wholly or partially obstructed, the party performing the work shall notify the town at least two hours before obstructing the sidewalk or street, unless prevented by sudden emergency. (<sup>92</sup> Code, § 40.15) Penalty, see § 10.99

**§ 94.16 APPLICATION; FEES.**

All persons desiring a permit to make an opening in any street or sidewalk, as set forth in § 94.15 shall make written application therefor, which application shall show the location of the proposed opening, the purpose therefor and the approximate number of square yards of surface to be cut. A fee may be required by the Board for such permit. (<sup>92</sup> Code, § 40.16)

**§ 94.17 STREET REPAIR; AFTER EXCAVATION.**

When any part of any street, sidewalk, alley, or other public place of the town shall be torn or dug up for any purpose, the person making the excavation or opening shall have the duty of refilling the excavation or opening, and the refilling shall be done in accordance with the standards and specifications of the town. (<sup>92</sup> Code, § 40.17) Penalty, see § 10.99

**§ 94.18 EXCAVATIONS; LEAVING UNPROTECTED.**

It shall be unlawful for any person, firm, or corporation who obtains a permit under the sections of this chapter to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk, or public place of the town without placing and maintaining proper guard rails three feet from the ground and signal lights or other warnings at, in or around the same, sufficient to warn the public of the excavation or work, and to protect all persons using reasonable care from injuries on account of the excavation or work. (<sup>92</sup> Code, § 40.18) Penalty, see § 10.99

**§ 94.19 STREETS NOT TO BE DAMAGED BY TRACTORS OR HARROWS.**

(A) It shall be unlawful for any person, firm, or corporation to drag, or run or cause to be dragged or run any harrow or other implement, engine, machine, or tool on any asphalt or other type of permanently paved street of the town which shall be likely in any way to injure or cut the surface thereof.

(B) Any person violating division (A) shall be liable to the town for the cost of repairing any and all damage caused.

(`92 Code, § 40.19) Penalty, see § 10.99

***Cross-reference:***

*Injury to public property generally prohibited, see § 130.02*

*Damaging town property, see § 94.22*

**§ 94.20 SIDEWALK CONSTRUCTION.**

No sidewalk of any description shall be built by any individual, firm, or corporation of any brick, wood, or other material without a written permit from the town.

(`92 Code, § 40.20) Penalty, see § 10.99

**§ 94.21 HOUSE MOVING.**

No person shall move any house or building on or across the public streets or sidewalks without the written consent of the Board and the deposit of a good and sufficient bond to cover damage done to any street or sidewalk or to any property of any person.

(`92 Code, § 40.21) Penalty, see § 10.99

**§ 94.22 DAMAGE TO TOWN PROPERTY.**

No person shall injure, tamper with, remove, paint on, or deface any bridge, culvert, ditch and drain, sign, sign post, street light, traffic signal, bulletin board, or other town property on the streets and sidewalks or elsewhere except employees of the town in the performance of their duties.

(`92 Code, § 40.22) Penalty, see § 10.99

**§ 94.23 DRIVEWAYS; PERMIT REQUIRED.**

No person shall begin to construct, reconstruct, repair, alter, or grade any driveway on the public streets, unless a written permit therefor has been issued by the town.

(`92 Code, § 40.23) Penalty, see § 10.99

***PARADES AND DEMONSTRATIONS*****§ 94.35 PERMIT REQUIRED.**

(A) It shall be unlawful for any person to obstruct or block the streets or sidewalks of the town by any exhibition, demonstration, organized demonstration, picket line or commercial venture, so as to prevent the normal flow of pedestrian or vehicular traffic, except that a special permit may be granted pursuant to this subchapter by the Chief of Police, by authority of the Board of Aldermen, or, in the absence of the Chief of Police, by the next highest police officer, for temporary and peaceful occupancy of a limited portion of said streets or sidewalks for purposes other than hostile demonstrations or commercial gain. Participation in such illegal exhibition, demonstration, organized demonstration or picket line by any individual through leadership, organization or physical participation therein, shall be unlawful.

(B) There shall be no parade, demonstration, aggregation or assembling of groups in the public streets or in or around any public building in town except upon the issuance of a permit therefor, under the regulations set out in this subchapter. The Chief of Police or, in his absence, the next highest ranking officer of the Police Department, but authority of the Board of Aldermen, is authorized to issue permits required by this section.

(`92 Code, § 40.35)

**§ 94.36 APPLICATION.**

A written application for a period required by this subchapter shall be filed 24 hours in advance of the proposed parade, picket line or group demonstration, on a form prescribed by the Police Department. The application shall be signed by the person or group of persons filing such application, and the application shall state the proposed place, time, purpose and size of such parade, picket line or demonstration, and whether or not any minors are going to participate. Such application shall also specify the person to be in charge of such parade or demonstration.

(`92 Code, § 40.36)

**§ 94.37 AUTHORITY OF OFFICER TO DETERMINE WHETHER MINORS MAY PARTICIPATE.**

If the application filed for a permit required by this subchapter specifies that minors are to be permitted to participate in the parade or demonstration, the police officer having authority to issue the permit shall determine whether or not said minors shall be permitted to participate and shall base his determination upon whether or not the purpose, time or place of the participation will be detrimental to or endanger the health, welfare or safety of such minors. The police officer shall have the authority, if he deems necessary, to require parents' written permission for participation in any such parade or demonstration by a minor.

(`92 Code, § 40.37)

**§ 94.38 FINDINGS PREREQUISITE TO ISSUANCE OF PERMIT.**

The officer having authority under this subchapter to issue the permit sought pursuant to this subchapter, in considering the issuance of the permit, shall, among other considerations provided, consider and find as a requisite for issuance that:

(A) The activity in question will not require excessive diversion of police from other necessary duties.

(B) The activity in question will not interfere with the rights of property owners in the area to enjoy peaceful occupancy and use of their property.

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

(D) This section shall not be violated at any time, and no permit, as contemplated by this subchapter, shall be issued for demonstrations, parades and such other purposes allowed under this subchapter to be used and exercised between 6:00 p.m. and 6:00 a.m. on any day.

(`92 Code, § 40.38)

**§ 94.39 TERMS AND CONDITIONS.**

(A) A permit issued pursuant to this subchapter may set the starting time and duration of the parade, demonstration or picket line, and may set the speed of its travel; the space between persons or vehicles; the portions or areas of the streets and sidewalks to be used; the length of the parade, group or line and such other requirements as the issuing officer may include in the permit for the control of free movement of traffic upon the streets and sidewalks, or for the health, safety and property rights of the participants and general public. Failure to comply with such requirements as set forth in the permit shall be unlawful.

(B) A permit for a parade, demonstration or picket line issued under this subchapter shall also designate the person in charge of the parade, demonstration and picket line.  
(`92 Code, § 40.39)

**§ 94.40 GROUNDS FOR DENIAL.**

The police officer having authority under this subchapter to issue a permit shall refuse the permit when the activity or purpose stated in the application would violate any provision of this code or other ordinance of the town or statute of the state, or when the activity or purpose would endanger the public health or safety or hinder or prevent the orderly movement of pedestrian or vehicular traffic on the streets or sidewalks.  
(`92 Code, § 40.40)

**§ 94.41 CONDUCT OF PERSONS ENGAGED IN DEMONSTRATIONS.**

(A) It shall be unlawful for any person or group of persons to shout, scream, sing or make any other noises with their voices which shall be unreasonably loud and disturbing to the public in general. By the terms of this section, it shall be considered that shouting, screaming, singing or the making of any other noises with voices by any person shall be considered as being unreasonably loud and disturbing when it can be heard throughout the distance of three city blocks or 1,200 feet, whichever is the least.

(B) Any gathering of persons or any group of persons upon the streets or sidewalks for the purpose of creating, or which creates mechanical or vocal sound which is of such intensity or nature as to interfere with the rights of peaceful occupancy by property owners in the adjoining areas, is unlawful, and no individual shall participate in, lead, direct or encourage such actions.

(C) Nothing provided in this section shall be construed to prevent the orderly expression of spectators at any regularly organized sport event or the peaceful assembly of any group for orderly expression or communication between those assembled.

(`92 Code, § 40.41) Penalty, see § 10.99

**§ 94.42 DUTY OF DESIGNATED DEMONSTRATION LEADER.**

The person designated in a permit issued pursuant to this subchapter as being in charge of the parade, demonstration or picket line, shall accompany the parade, demonstration or picket line and shall carry the permit with him while so accompanying the parade, demonstration or picket line.

(`92 Code, § 40.42)

## CHAPTER 95: TREES

### Section

#### *General Provisions*

- 95.01 Purpose
- 95.02 Definitions

#### *Tree Care; Prohibitions; Licensing*

- 95.15 Street tree species
- 95.16 Spacing
- 95.17 Public tree care
- 95.18 Tree topping
- 95.19 Removal of stumps
- 95.20 Interference with Planning Board
- 95.21 License and bond

#### *Administration and Enforcement*

- 95.35 Administration by Planning Board
- 95.36 Review by Town Board
  
- 95.99 Penalty

### **GENERAL PROVISIONS**

#### **§ 95.01 PURPOSE.**

The purpose of this chapter is to regulate the planting, maintenance and removal of trees on municipally owned public property and rights of way within the town and on municipally owned property wherever located. In order to protect and conserve trees on public property and rights of way,

this chapter provides for the pruning, treatment and removal of trees and shrubs as is deemed necessary by the Town Board of Aldermen or a person or board acting under the authority of the Board of Aldermen. This chapter is also intended to provide for the trimming or removal of trees on public land when they obscure street lights, interfere with utility lines or constitute a hazard to pedestrian or vehicular traffic or otherwise endanger the public health, safety or welfare. It is also the purpose of this chapter to encourage the protection of trees and express the Town Board's intent to use trees to create a more natural and amenable human environment. This chapter is not intended to be punitive nor to cause hardship to any person who uses the upmost care and diligence to protect trees within the town or on town property.

(Ord. passed 6-12-00)

#### **§ 95.02 DEFINITIONS.**

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

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

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

(Ord. passed 6-12-00)

### ***TREE CARE; PROHIBITIONS; LICENSING***

#### **§ 95.15 STREET TREE SPECIES.**

The Planning Board shall be responsible for an official street tree species list comprised of three groups of trees: small trees, medium trees and large trees. No trees other than those included in the list may be planted as street trees without written permission of the Planning Board.

(Ord. passed 6-12-00)



**§ 95.16 SPACING.**

The Planning Board will be responsible for establishing guidelines for the spacing of town trees in accordance with the three species size classes listed in § 95.15 of this chapter. The guidelines will cover spacing between trees, the distance trees may be planted from curbs or curb lines and sidewalks, the distance street trees may be planted from any street corner, the location of trees relative to overhead and underground water lines, sewer lines, distribution lines, transmission lines or other utilities and any other areas involving the spacing of street trees, park trees or town owned trees.

(Ord. passed 6-12-00)

**§ 95.17 PUBLIC TREE CARE.**

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

(B) The Planning Board may remove or cause or order to be removed any Publicly owned tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements or is it infected with any injurious fungus, insect or pest.

(C) This section does not prohibit the planting of street trees by adjacent property owners provided that the selection and location of said trees is in accordance with the guidelines established by the Planning Board and the Planning Board may reserve the right to approve or disapprove any plantings to be placed in the rights of way of any streets, roads, alleys, avenues, ways or sidewalks.

(Ord. passed 6-12-00)

**§ 95.18 TREE TOPPING.**

It shall be unlawful as normal practice except as described below for any person, firm or town department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees that interfere with or are an eminent threat to utility wires or other obstructions where other pruning practices are impractical may be exempted from this provision of this section at the determination of the Planning Board.

(Ord. passed 6-12-00) Penalty, see§ 95.99

**§ 95.19 REMOVAL OF STUMPS.**

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Ord. passed 6-12-00) Penalty, see § 95.99

**§ 95.20 INTERFERENCE WITH PLANNING BOARD.**

It shall be unlawful for any person to prevent, delay or interfere with the Planning Board in its administration and enforcement of this Chapter or of any of its agents while engaging in and about the planting, cultivation, mulching, pruning, spraying or removing of any street trees, park trees or trees on public grounds as authorized in this chapter.

(Ord. passed 6-12-00) Penalty, see§ 95.99

**§ 95.21 LICENSE AND BOND.**

No person or firm shall engage in the business or occupation of pruning, treating or removing street or park trees within the town without first securing the appropriate business license and obtaining liability insurance in the minimum amounts of \$300,000 for bodily injury and \$300,000 property damage; provided, however, that no such license shall be required of any public service company or town employee doing such work in pursuit of his or her public service endeavors and that no such insurance shall be required of any town employee doing such work.

(Ord. passed 6-12-00)

***ADMINISTRATION AND ENFORCEMENT*****§ 95.35 ADMINISTRATION BY PLANNING BOARD.**

(A) The Planning Board for the town is hereby invested with full power and authority to administer and enforce the provisions of this tree chapter.

(B) It shall be the responsibility of the Planning Board to study, investigate, counsel and develop and/or update bi-annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas.

Such plan will be presented bi-annually to the Board of Aldermen and upon its acceptance and approval shall constitute the official comprehensive town tree plan. The Planning Board, when requested by the Board of Aldermen, shall consider, investigate, make findings, report and recommend any special matter or question coming within the scope of its work.

(C) The Planning Board shall keep a journal of its proceedings as it relates to the administration and enforcement of the tree chapter.  
(Ord. passed 6-12-00)

#### **§ 95.36 REVIEW BY TOWN BOARD.**

The Board of Aldermen shall have the right to review the conduct, acts and decisions of the Planning Board in administering and enforcing this chapter. Any person may appeal from any ruling or order of the Planning Board in administering and enforcing this chapter to the Town Board of Aldermen which Board may hear the appeal and make a final decision.  
(Ord. passed 6-12-00)

#### **§ 95.99 PENALTY.**

Any person violating any provision of this chapter shall be, upon conviction or plea of guilty, subject to a fine not to exceed \$100.  
(Ord. passed 6-12-00)



## CHAPTER 110: PRIVILEGE LICENSE TAX

### Section

- 110.01 Definitions
- 110.02 License tax levied
- 110.03 Town Clerk; duties
- 110.04 License; due date
- 110.05 Application; false statement thereon
- 110.06 Proration of tax; seasonal businesses
- 110.07 Multiple businesses
- 110.08 Separate places of business
- 110.09 Display of license
- 110.10 Change in place of business
- 110.11 No abatement of tax
- 110.12 Effect of license
- 110.13 Exemptions
- 110.14 Unlawful to conduct business without a license
- 110.15 Collection of unpaid tax
- 110.16 Schedule of license taxes

### **Statutory reference:**

*Privilege license taxes, see G.S. § 160A-211*

*Specification of whether a city or town may levy a license tax on businesses taxed under Schedule B of the Revenue Act of 1939, see G.S. §§ 105-33 et seq.*

### **§ 110.01 DEFINITIONS.**

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

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

**Bryson City - Business Regulations**

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

- (1) By maintaining a business location within the town;
- (2) By soliciting business within the town; or
- (3) By performing services within the town.

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

**SEASONAL IN NATURE.** When a business is taxed by this chapter on an annual basis, but is operated within the town for less than six months of the year.  
(`92 Code, § 60.01)

**§ 110.02 LICENSE TAX LEVIED.**

A license tax is levied on the privilege of engaging in every business within this town which is listed in the schedule of taxes provided for in § 110.16. Any person so engaged in business shall be responsible for making certain that the applicable license tax is paid.  
(`92 Code, § 60.02)

**§ 110.03 TOWN CLERK; DUTIES.**

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

(B) The Town Clerk shall make any investigation necessary to determine the tax liability of persons engaged in business within the town. If necessary, the Town Clerk and/or the Police Chief or his designee is authorized to enter on the premises of any business during normal business hours for the purpose of determining whether this chapter has been complied with.  
(`92 Code, § 60.03)

**§ 110.04 LICENSE; DUE DATE.**

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

(B) The privilege license tax is due on July 1 of each year. If, however, a person begins a business after July 1, the tax for that year must be paid before the business is begun.  
(`92 Code, § 60.04)

**§ 110.05 APPLICATION; FALSE STATEMENT THEREON.**

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

- (1) Name and nature of the business for which the license is sought;
- (2) The address where the business is conducted, and a mailing address for the business, if different;
- (3) The name and address of the person filling out the application, and his relationship to the business;
- (4) The gross receipts of the business for the most recently completed tax year, if applicable; and
- (5) Any other information which the Town Clerk determines to be necessary.

(B) Any person who willfully makes a false statement on a license application shall be guilty of a misdemeanor.  
(`92 Code, § 60.05) Penalty, see § 10.99

**§ 110.06 PRORATION OF TAX; SEASONAL BUSINESSES.**

(A) Except when a tax is based on gross receipts, if a business is begun after January 31 but before July 1, the tax shall be one-half of the amount otherwise due.

(B) Except when a tax is based on gross receipts, a person engaged in a business which is seasonal in nature is liable for one-half of the amount of tax otherwise due.  
(`92 Code, § 60.06)

**§ 110.07 MULTIPLE BUSINESSES.**

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

(`92 Code, § 60.07)

**§ 110.08 SEPARATE PLACES OF BUSINESS.**

Unless otherwise provided by state law or by the tax schedule provided for in § 110.16, if a person engages in a business in two or more separate places, a separate license tax shall be required for each place of business. For purposes of this section, if a person engages in the same business at two or more locations within the town, which locations are contiguous, communicate with and open directly into each other, and are operated as a unit, the person is liable for only one license tax.

(`92 Code, § 60.08)

**§ 110.09 DISPLAY OF LICENSE.**

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

(`92 Code, § 60.09) Penalty, see § 10.99

**§ 110.10 CHANGE IN PLACE OF BUSINESS.**

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

(`92 Code, § 60.10)



**§ 110.11 NO ABATEMENT OF TAX.**

If a licensee discontinues a business before the end of the period for which the license was issued, the license tax shall not be abated nor shall a refund of any part of the license tax be made.  
(`92 Code, § 60.11)

**§ 110.12 EFFECT OF LICENSE.**

The issuance of a license under this chapter does not authorize the carrying on of a business for which additional licenses or qualifications are required by state or local law, nor does the issuance of a license prevent the town from enacting additional regulations applicable to the licensee.  
(`92 Code, § 60.12)

**§ 110.13 EXEMPTIONS.**

Any person who engages in business within this town for religious, educational, or charitable purposes shall be exempt from paying any privilege license tax levied by this chapter.  
(`92 Code, § 60.13)

**§ 110.14 UNLAWFUL TO CONDUCT BUSINESS WITHOUT A LICENSE.**

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

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

(C) A conviction under this section does not relieve a person of his liability for the license tax imposed by this chapter.  
(`92 Code, § 60.14) Penalty, see § 10.99

**§ 110.15 COLLECTION OF UNPAID TAX.**

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

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

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

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

(`92 Code, § 60.15)

**§ 110.16 SCHEDULE OF LICENSE TAXES.**

The state privilege license schedule, as set out in G.S. § 160A-211 and 105-33 *et seq.*, is hereby adopted as the privilege license schedule for the town.

(`92 Code, § 60.16)

## **§110.16 SCHEDULE OF LICENSE TAXES.**

The state privilege license schedule, as set out in G.S. § 106A-211 and 105-33 *et seq.*, is hereby adopted as the privilege license schedule for the town. In addition, the town shall require a privilege license and the payment of taxes as follows:

**CYBER-GAMBLING ESTABLISHMENTS:** Any for-profit business or enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including, but not limited to sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Such businesses or enterprises have as a part of its operation the running of one or more games or processes with any of the following characteristics: (1) payment, directly or as an intended addition to the purchase of a product, whereby the customer receives one or more electronic sweepstakes, tickets, cards, tokens or similar items entitling or empowering the customer to enter a sweepstakes, and without which item the customer would be unable to enter the sweepstakes; or, (2) payment, directly or as an intended addition to the purchase of a product, whereby the customer can request a no purchase necessary free entry of one or more sweepstakes tickets or other item entitling the customer to enter a sweepstakes. This term cyber-gambling establishments include, but is not limited to, internet cafes, internet sweepstakes, video sweepstakes or cybercafes, who have a finite pool of winners. This does not include any lottery endorsed or permitted by the State of North Carolina. License taxes for cyber-gambling establishments shall be \$2,500.00 per location and \$700.00 per machine/terminal.

This ordinance, as amended, shall be effective on and after July 1, 2012.

('92 Code, § 60.16; amended 2012)

## CHAPTER 111: ADVERTISING

### Section

- 111.01 Handbills
- 111.02 Defacing telephone or telegraph poles
- 111.03 House-to-house distribution

#### **§ 111.01 HANDBILLS.**

It shall be unlawful to distribute indiscriminately to the public any cards, circulars, handbills, samples of merchandise, or any advertising matter whatsoever on any public street or sidewalk or other public place in the town.

(`92 Code, § 63.01) Penalty, see § 10.99

#### **§ 111.02 DEFACING TELEPHONE OR TELEGRAPH POLES.**

No person shall post any handbill, advertisement, picture, or poster on any telephone, telegraph, or electric light pole in the town in such a manner as to deface or damage the pole.

(`92 Code, § 63.02) Penalty, see § 10.99

#### **§ 111.03 HOUSE-TO-HOUSE DISTRIBUTION.**

It shall be unlawful to distribute indiscriminately to the public by leaving at stores, offices, houses, or residences in the town any cards, circulars, handbills, samples of merchandise, or any advertising matter whatsoever.

(`92 Code, § 63.03) Penalty, see § 10.99



## **CHAPTER 112: ALCOHOLIC BEVERAGES**

### **Section**

- 112.01 Adoption of state law
- 112.02 Possession in public place
- 112.03 Drinking in public places
- 112.04 Town liquor control store

### **§ 112.01 ADOPTION OF STATE LAW.**

The state law regulating intoxicating liquors, as expressly set out in G.S. Chapter 18B, and any and all other regulations governing the use and sale of intoxicating liquors, is hereby specifically adopted as if fully set forth herein.

(`92 Code, § 64.01)

### **§ 112.02 POSSESSION IN PUBLIC PLACE.**

It shall be unlawful for any person to consume or display beer, wine, whiskey or other alcoholic beverages in or on a street or sidewalk or in a public place, except as expressly permitted by the General Statutes of North Carolina.

(`92 Code, § 64.02) Penalty, see § 10.99

### **§ 112.03 DRINKING IN PUBLIC PLACES.**

(A) It shall be unlawful for any person to drink, or to offer a drink to another person or persons of, any alcoholic beverage, as that term is defined by G.S. § 18B-101, of the Statutes of North Carolina in any public park, parkway, public street, public alleyway, public sidewalk, public parking area or lot, or any other property owned, controlled, or maintained by the town.

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(B) The terms and provisions of this section shall not apply to the following locations:

(1) Those locations where the State Board of Alcoholic Control or any other duly constituted authority has issued or hereafter issues a permit or license pursuant to the laws of the State of North Carolina.

(2) Those locations under the supervision and control of the Director of Parks and Recreation which the Director designates as permitted locations under such regulations as the Director establishes.

(C) It shall be unlawful for any person to drop, throw, cast or deposit, or in any manner dispose of any intoxicating liquor or not, upon, or in any public park, parkway, public street, public alleyway, public sidewalk, public parking area or lot, or any other property owned controlled, or maintained by the town, or upon the private property of another without permission of the owner, tenant, or person in control of such private property.

( '92 Code, § 64.03) (Ord. 105, passed - -80) Penalty, see § 10.99

**§ 112.04 TOWN LIQUOR CONTROL STORE.**

(A) As approved by vote of the electorate of the town, a liquor control store is authorized to operate in the town. On Sundays the off-premises sale of beer, wine, and fortified wine shall be permitted only from 1:00 p.m. to 6:00 p.m.

(B) The Mayor and the Board of Aldermen hereby create a Town Board of Alcoholic Beverage Control composed of a chairperson and two other members. The chairperson of the board shall be designated by the Mayor and Governing Body of the town and shall serve for his first term a period of three years, and one member shall serve for his first term a period of two years, and the other member shall serve for a period of one year, and all terms shall begin with the date of their appointment, and after the terms shall have expired, their successors in office shall serve for a period of three years. Their successors, or any vacancy occurring in the Board shall be named or filled by the Mayor and the Governing Body of the town.

(C) The Town Board of Alcoholic Beverage Control shall have all the powers and duties imposed by G.S. § 18B-701 and shall be subject to the powers and authority of the State Board of Alcoholic Beverage Control as provided in G.S. § 18B-200 *et seq.* The Board of Alcoholic Beverage Control and the operation of any town liquor stores authorized under the provisions of this section shall be subject to and in pursuance with the provisions of Article 7 of Chapter 18B of the General Statutes governing local alcoholic beverage control boards, being G.S. § 18B-700 *et seq.*

(D) The net profits derived from the operation of liquor control stores in the town shall, after deducting necessary working capital, salaries, and expenses, be distributed quarterly as follows:

(1) Seventy percent to the General Fund of the town.

(2) Twenty percent to the town law enforcement.

(3) 10% to the town for parks and recreation.

(`92 Code, § 64.04) (Ord. passed - - )





## CHAPTER 113: ANIMAL-DRAWN VEHICLES

### Section

- 113.01 Permit required
- 113.02 Operating specifications
- 113.03 Route system
- 113.04 Health of animals
- 113.05 Animal working conditions
- 113.06 Use of certain equipment
- 113.07 Water; stall and stable conditions
- 113.08 Supervision of Chief of Police
- 113.09 Removal of animal from service for violation
- 113.10 Condition of vehicles
- 113.11 Trailers
- 113.12 Requirements for drivers
- 113.13 Alcoholic beverages
- 113.14 Insurance coverage

### § 113.01 PERMIT REQUIRED.

No person shall operate an animal-drawn vehicle for tours by the general public without a permit from the Town Clerk. Any violation of the standards set forth hereinafter in this chapter shall be grounds for suspension or termination of the permit.

(Res. passed 5-3-99) Penalty, see § 10.99

*Cross-reference:*

*Persons propelling pushcarts or riding animals, see § 70.06*

### § 113.02 OPERATING SPECIFICATIONS.

Animal-drawn vehicles shall adhere to the following operating specifications during the hours of operations:

(A) Vehicle shall travel in the curb lane except when passing parked vehicles or, other obstructions which prevent use of the curb lane.

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(B) Vehicle shall not travel on streets or roads with grades equal to or greater than 10%.

(C) Vehicle shall not stop within the roadway other than at designated loading and unloading areas except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

(D) Vehicle shall observe all applicable rules of the road as required for motor vehicles.  
(Res. passed 5-3-99) Penalty, see § 10.99

**§ 113.03 ROUTE SYSTEM.**

(A) A proposed detailed route system of an animal-drawn vehicle for hire shall be submitted to the Chief of Police for review, recommendation and approval. The Chief of Police shall designate streets and hours of the day that animal-drawn vehicles will be prohibited. A route system shall be submitted for each vehicle to be placed into operation.

(B) This detailed route system shall include the following information:

- (1) The hours of operation for the vehicle.
- (2) The days of week the vehicle will be in operation.
- (3) The duration of the operation during the year.
- (4) All locations for loading and unloading passengers.

(Res. passed 5-3-99)

**§ 113.04 HEALTH OF ANIMALS.**

No animal shall be permitted to pull any vehicle for hire unless the animal is in good health and meets at least the following requirements:

- (A) The animal must be at least 30 months old.
- (B) The animal must weigh no less than 900 pounds.
- (C) The animal shall have no open sores or wounds, shall not be lame or have any other ailment. Any animal found to have an ailment shall not be used without the approval of a licensed veterinarian.

(D) The animal must be groomed daily and shall not have fungus, dirty coat or show symptoms of illness or irritation.

(E) The animal must have adequate flesh and muscle tone. The ribs showing on the animal must be no deeper than ¼-inch.

(F) The animal must be no more than six months pregnant.  
(Res. passed 5-3-99) Penalty, see § 10.99

**§ 113.05 ANIMAL WORKING CONDITIONS.**

(A) No animal used as provided in this chapter shall be worked under any of the following conditions, and any owner allowing said conditions to exist shall be found in violation of this chapter:

(1) The animal or combination of animals shall not pull any combined weight, including passengers and driver in excess of two times the animals' body weight. No animal or combination of animals shall pull any vehicle which is occupied by a number of persons which exceeds such vehicle's normal safe-seating capacity.

(2) No animal shall work more than ten hours in any 24-hour period and shall have at least one 20-minute rest break or 2 ten-minute rest breaks per hour.

(3) The animal pulling a vehicle for hire shall not move at a speed faster than a slow trot.

(4) The animal shall not work more than 50 hours in any seven-day period and no more than five consecutive days.

(5) The animal shall not be worked with equipment, other than normal blinders, which causes an impairment of vision.

(6) The animal shall not be subjected to any condition or treatment which will impair the good health and physical condition of the animal.

(B) For purposes of this section, working hours of animals shall include time spent on rest breaks and all time the animals are available for hire.  
(Res. passed 5-3-99) Penalty, see § 10.99

**§ 113.06 USE OF CERTAIN EQUIPMENT.****(A) Use of harness.**

- (1) No animal will be worked without a padded saddle or bit.
- (2) The harness must be oiled and cleaned so as to be soft at all times.
- (3) The harness will be properly fitted and maintained and kept free of makeshift materials such as wire, sisal rope and hazardous rusty chain.

**(B) Use of whips.** No driver of an animal-drawn vehicle may whip an animal with more than a light touch by a light whip.

**(C) Apron bags.** No animal shall pull a vehicle for hire unless such animal is wearing an apron bag (manure catcher). Apron bags must be properly fitting and constructed of sturdy material to insure the comfort of the animal and complete waste disposal.

**(D) Shoes.** No animal shall be used to pull vehicle for hire without properly fitting shoes on each properly trimmed hoof. Should an animal throw a shoe during its shift, the hoof must be examined by the driver and any nails removed. If the animal's hoof is grown more than ¼-inch from the quick, the horse may complete the shift, but must be shod prior to the next day shift.

(Res. passed 5-3-99) Penalty, see § 10.99

**§ 113.07 WATER; STALL AND STABLE CONDITIONS.**

**(A) Water.** Adequate water for animals pulling vehicles for hire will be provided in the stables at all times and in working areas as often as needed and as climate and working conditions require.

**(B) Stalls and stables.**

(1) Ventilation and fresh air shall be provided in stalls housing animals used to pull vehicles for hire so as to minimize drafts, odors and moisture condensation.

(2) Ceilings in stalls and stables must be at least ten feet high from bedding flooring.

(3) Bedding in stalls and stables shall be highly absorbent and comfortable, if in direct contact with the animal, and shall be provided as follows:

(a) Bedding shall be deep enough so as not to show wetness under the pressure of the animal;

(b) Bedding so used shall not be a type that will harm or in anyway be a discomfort to the animal;

(c) Bedding shall be deep enough to provide warmth to the animal;

(d) Surfaces, including floors, with bedding shall be free of odor and waste and shall be cleaned and disinfected regularly;

(e) Stalls and stables shall be structurally sound and maintained in good repair to protect the animals from injury, and to contain them;

(f) Stalls and stable floors or surfaces shall be constructed and maintained to protect the animals feet and legs from injury;

(g) Stalls and stables shall be constructed and maintained so as to enable animals to remain dry and clean;

(h) Stalls shall be constructed and maintained to provide sufficient space to allow each animal to turn about freely and to easily stand, sit or lie in a comfortable, normal position;

(i) Stalls and stables shall be constructed and maintained so that the animals contained therein have easy access to food and water, and such food and water shall be kept free of contamination;

(j) Stalls and stables shall be kept sanitary and receive periodic cleaning to remove feces and other waste materials, including trash and dirt so as to minimize disease hazards and reduce odors.

(Res. passed 5-3-99) Penalty, see § 10.99

**§ 113.08 SUPERVISION OF CHIEF OF POLICE.**

(A) Whenever any animal drawn vehicle is operated for commercial purposes to provide rides to the general public, the fitness of the animal and its humane treatment shall be under the supervision of the Chief of Police who shall have power to determine:

(1) Physical fitness of the animal and limitation of work and conditions of work;

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- (2) Condition and fitness of the harness;
- (3) Care and treatment of such animals; and
- (4) Emergency conditions of animals if unfit to pull vehicles for hire.

(B) The Chief of Police shall inspect any such animals at least once every three months and may delegate the duties of the Chief of Police hereunder to other qualified agents.

(Res. passed 5-3-99)

**§ 113.09 REMOVAL OF ANIMAL FROM SERVICE FOR VIOLATION.**

(A) Upon discovery of a violation of any section of this chapter relating to animal-drawn vehicles for hire, the Chief of Police may issue an order to the person responsible for the violation, requiring removal of the subject animal from service.

(B) No animal which has been removed from service for violation of this section shall be returned to service until the animal has been inspected by the Chief of Police or his designees and approved for return to service in writing.

(C) Any person who refuses to comply with the order of the Chief of Police or he complies with the order and returns the animal to service before being inspected or approved by the Chief of Police shall be subject to revocation of its authority to operate a commercial animal-drawn vehicle.

(Res. passed 5-3-99)

**§ 113.10 CONDITION OF VEHICLES.**

(A) Vehicle for hire pulled by animals must be properly lubricated and wheels must spin freely. Such vehicles for hire must be inspected and approved in writing for service by the Chief of Police every 12 months and are subject to removal from service pending repair and re-inspection.

(B) Animal-drawn vehicles operated commercially for hire by the general public shall conform to the following vehicle specifications:

- (1) The wheel base shall be equal to or less than 14 feet;
- (2) The total overall length of the vehicle shall be equal to or less than 28 feet;
- (3) The maximum overall width shall be equal to or less than 78 inches;

(4) The tires shall be rubber or other resilient materials. Metal tires shall be prohibited;

(5) Vehicle shall be equipped with hydraulic brakes;

(6) The vehicle shall be drawn by no more than two animals;

(7) Vehicle shall be equipped with one red light on each outer extremity of the rear of the vehicle body, mounted between two and five feet above the road surface. Similarly mounted yellow lights shall be mounted on the front of the vehicle body. Each light shall be no less than four inches in diameter. Vehicles shall also be equipped with a slow moving vehicle emblem;

(8) Vehicles shall have canopy protection from sun and rain;

(9) Vehicles shall be reasonably accessible to disabled passengers.

(Res. passed 5-3-99) Penalty, see § 10.99

**§ 113.11 TRAILERS.**

Any trailer or vehicle involved in transporting animals governed in this chapter must be in good working order and must be near the working location to provide speedy removal of any animal in an emergency situation.

(Res. passed 5-3-99) Penalty, see § 10.99

**§ 113.12 REQUIREMENTS FOR DRIVERS.**

Drivers of animal drawn vehicles shall comply with the following:

(A) Drivers must have a working knowledge and general experience involving livestock and driving carriages or animal-drawn vehicles;

(B) Drivers must be 18 years of age or older.

(Res. passed 5-3-99) Penalty, see § 10.99

**§ 113.13 ALCOHOLIC BEVERAGES.**

(A) No driver shall operate an animal drawn vehicle while under the influence of alcohol, controlled substances, or prescription drugs that may impair the driver.



(B) Passengers who are visibly under the influence of alcohol or controlled substances shall not be permitted to ride.

(C) No person shall consume alcohol or controlled substances while operating or riding in an animal-drawn vehicle.

(Res. passed 5-3-99) Penalty, see § 10.99

#### **§ 113.14 INSURANCE COVERAGE.**

Businesses operating animal-drawn vehicles shall maintain insurance coverage for the protection of drivers, passengers and other users of the public roadways in an amount not less than \$250,000. Proof of insurance shall be provided to the Town Clerk annually.

(Res. passed 5-3-99) Penalty, see § 10.99

## CHAPTER 114: GAME ROOMS

### Section

- 114.01 Definition
- 114.02 Licenses required
- 114.03 Restrictions
- 114.04 Prohibited conduct
- 114.05 Rules for operation
- 114.06 Removal to other location
- 114.07 Revocation of license

### *Statutory reference:*

*Regulation and licensing of businesses, see G.S. § 160A-194*

### **§ 114.01 DEFINITION.**

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

**GAME ROOM.** Any place of business that principally operates mechanical games or pay devices or tables for which charge is made either directly or indirectly. Examples of game rooms, by way of illustration and not limitation, are poolrooms, bowling alleys, billiard halls, amusement centers, video game rooms, and the like.

(`92 Code, § 61.01)

### **§ 114.02 LICENSES REQUIRED.**

(A) Every operator of a game room shall be required to pay a privilege license tax in accordance with the privilege license ordinance contained in Chapter 110.

(B) In addition, every operator of a game room shall apply for and obtain a license from the Board to operate a game room. Application for such a license shall be made upon forms provided by the Town Clerk.

(C) An application fee of \$15 shall be paid to and collected by the Town Clerk when the application is submitted to cover the cost of administration of this chapter.

(D) It shall be unlawful to operate a game room within the town without a license as required by division (B) above.

(`92 Code, § 61.02) Penalty, see §10.99

### § 114.03 RESTRICTIONS.

The Board shall not issue a license to any applicant who:

(A) Has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or

(B) Is not a resident of North Carolina; or

(C) Is of immoral character; or

(D) Is an habitual user of alcoholic beverages or narcotic drugs.

(`92 Code, § 61.03)

### § 114.04 PROHIBITED CONDUCT.

Licensees under this chapter shall not, and neither shall their employees:

(A) Suffer or permit any gambling on the licensed premises at any time; nor the sale or use of any racing, football, or other parlay cards or gambling boards or devices;

(B) Suffer or permit the licensed premises to become disorderly; or permit any profane, obscene, or indecent language thereon;

(C) Employ in carrying on the business any person who has been convicted of unlawfully selling alcoholic beverages or narcotic drugs.

(`92 Code, § 61.04) Penalty, see §10.99

**§ 114.05 RULES FOR OPERATION.**

The following rules shall be observed by all operators of game rooms within the town.

(A) All game rooms shall be closed from 11:00 p.m. until 7:00 a.m. Monday through Thursday and shall close at 12:00 midnight on Fridays and Saturdays. Game rooms are permitted to be open from 12:00 p.m. to 11:00 p.m. on Sundays.

(B) No play on any game shall be allowed during the times when game rooms are required by this chapter to remain closed.

(C) All game rooms shall be operated only on the ground floor of a building, and plate glass windows shall be in those parts of the building facing any street, so that a clear view inside may be had from the street.

(D) No screens, curtains, blinds, partitions, or other obstructions shall be placed between the entrance to the room where games are played and the rear wall of such room so that a clear view of the interior may be had from the street.

(E) No loud noises shall be allowed to emanate beyond the licensed premises.

(F) There must be an adult (18 years of age or older) managing the business on the premises at all times during the hours of operation.

(`92 Code, § 61.05) (Am. Ord. passed 10-2-95) Penalty, see §10.99

**§ 114.06 REMOVAL TO OTHER LOCATION.**

The removal from one location to another of any business designated above shall be deemed as the granting of a new license, and the provisions of this chapter regarding new licenses shall apply in all respects to the removal of any game room, heretofore licensed and in operation from its present location where it was operating when its last license was issued to any other or different location with the town. An application for removal shall contain the address and location where the business is then being operated and also the address of the new location where applicant desires to remove same.

(`92 Code, § 61.06)

**§ 114.07 REVOCATION OF LICENSE.**

After giving the operator of a game room adequate notice and an opportunity to be heard, the Board may revoke the license of any game room operator who:

(A) Violates the provisions of §§114.04 or 114.05; or

(B) Is convicted of unlawfully selling alcoholic beverages or narcotic drugs.  
(`92 Code, § 61.07)

## CHAPTER 115: PEDDLERS

### Section

115.01 Definitions

115.02 Registration

#### *Statutory reference:*

*Regulation of solicitations and itinerant merchants authorized, see G.S. § 160A-178*

### § 115.01 DEFINITIONS.

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

**PEDDLER.** Any person who transports goods from place to place and sells or offers for sale the goods, or who, without traveling from place to place, sells or offers for sale any goods from any vehicle or device, provided, that any person who separates the acts of sale and delivery for the purpose of evading the provisions of this chapter shall be deemed a peddler.

**SOLICITOR.** Any person who travels from place to place taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance, and any person who uses or occupies any building or premises for the sole purpose of taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance.

**TRANSIENT VENDOR.** Any person who engages in a temporary business of selling and delivering goods and who, for this purpose, uses or occupies any building or premises, provided, that no person shall be relieved from complying with the provisions of this chapter merely by conducting a transient business in association with any permanently established merchant.

(`92 Code, § 62.01)

**§ 115.02 REGISTRATION.**

Each and every person doing business in the town as a peddler, solicitor, or transient vendor shall file with the Clerk, on a form to be provided for the purpose, a statement setting forth the following information:

- (A) Name and address of individual filing the statement;
  - (B) Name and address of principal or employer if individual is an agent or employee;
  - (C) Credentials showing relationship of agent or employee;
  - (D) Description of individual filing statement including height, weight, sex, age, color, and distinguishing characteristics, if any;
  - (E) The goods to be sold or offered for sale, or the type of services to be rendered;
  - (F) The period of time during which the business will be carried on in the town; and
  - (G) Description of automobile or other vehicle to be used in the business, including the make, model, body style, color, and license number.
- (`92 Code, § 62.02) Penalty, see § 10.99

## CHAPTER 116: TAXICABS; FOR-HIRE TRUCKS

### Section

#### *Taxicab Regulations*

- 116.01 Definition
- 116.02 Permit required
- 116.03 Certificate of convenience and necessity required
- 116.04 Revocation of certificate
- 116.05 Authority to limit rates
- 116.06 Refusal to pay fare
- 116.07 Transportation for unlawful purpose
- 116.08 Liability insurance

#### *For-Hire Pickup Trucks*

- 116.20 Definitions
- 116.21 Operator's application
- 116.22 Liability insurance
- 116.23 Term of license
- 116.24 Revocation of license
- 116.25 Refusal to issue license
- 116.26 Enforcement

#### *Parking Regulations*

- 116.40 Definitions
- 116.41 Use of streets prohibited in certain areas
- 116.42 Enforcement



**TAXICAB REGULATIONS****§ 116.01 DEFINITION.**

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

**TAXICAB.** Any motor vehicle seating nine or fewer passengers operating upon any street or highway on call or on demand, accepting or soliciting passengers indiscriminately for hire between such points along streets or highways as may be directed by the passenger or passengers being transported, and shall not include motor carriers as defined in G.S. § 62-39(17).  
(`92 Code, § 65.01)

**§ 116.02 PERMIT REQUIRED.**

(A) No person shall operate a taxi in the town without first having obtained a permit.

(B) The Town Clerk is hereby authorized to issue permits to operate taxis in the town upon prior approval by the Board of Aldermen.

(C) At no one time shall more than nine taxi permits be outstanding in the town.  
(`92 Code, § 65.02) Penalty, see § 10.99

**§ 116.03 CERTIFICATE OF CONVENIENCE AND NECESSITY REQUIRED.**

(A) 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 Aldermen a certificate of convenience and necessity pursuant to this section.

(B) Each person desiring a certificate of convenience and necessity shall file an application therefor on forms supplied by the Town Clerk.

(1) Each application for a certificate of convenience and necessity shall be scheduled for a hearing not later than 30 days after it is filed. The applicant shall be notified by the Town Clerk by mail to the business address set forth in the application of the date and time of the hearing, which notification shall be sent at least ten days before the day set for the hearing. The Town Clerk shall also, within the

same time, notify all persons who at that time hold certificates of convenience and necessity for the operation of taxicabs within the town of the time and date of such hearing, and the name of the applicant. In addition, the Town Clerk shall cause to be published at least once in a newspaper of general circulation at least ten days before the hearing, a notice setting forth the name of the applicant and the date and time of the hearing. The cost of publication shall be paid by the applicant.

(2) The burden of proof shall be upon the applicant to establish the existence of public convenience and necessity for the operation of the taxicabs specified in his application, and all other facts required for the granting of a certificate.

(3) In determining whether the public convenience and necessity requires the issuance of a certificate, the Board of Aldermen shall, among other things, take into consideration the following factors:

(a) Whether or not the public convenience and necessity requires such proposed or additional taxicab service within the town;

(b) The financial responsibility of the applicant and the likelihood of the proposed service being permanent, responsible, and satisfactory;

(c) The number and condition of the equipment;

(d) The schedule of proposed rates to be charged;

(e) The number of taxicabs now operated and the demand for increased service, if any; whether or not the safe use of the 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 taxicabs;

(f) The experience of the applicant in the taxicab business;

(g) Such other relevant facts as may be deemed necessary and advisable.

(4) Before making any decision with respect to the issuance of a certificate, the Board of Aldermen or a committee thereof shall make a full and complete investigation of all facts and may, if it so desires, subpoena witnesses and utilize the services of the Chief of Police or any other officer or employee of the town.

(5) The Board of Aldermen shall have power, and it shall be its duty, to order certificates issued, to refuse to issue the certificates, or to issue certificates for a partial exercise only of the privileges sought. It may attach to the exercise of the rights granted by such certificate, such terms and conditions as in their judgment the public convenience and necessity may require.

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(C) A certificate issued pursuant to this section shall constitute a franchise from the town for the operation of taxicabs within the town, subject to the provisions of this section for one year, unless a shorter period of time is specified in the certificate. Applications for renewal shall be filed annually and hearings conducted as herein provided.

(D) If a certificate is granted to an applicant pursuant to this section and the certificate holder shall fail, in accordance with the provisions of the certificate, to begin operation within 60 days after the date of the certificate, the certificate shall become null and void.

(E) A certificate is not transferable without the consent of the Board of Aldermen. Application to transfer a certificate shall be filed in the same manner as an application for a certificate. The proceedings upon such application for transfer shall be the same as those for the issuance of a certificate, except that the question of public convenience and necessity need not be proved.

(F) The person to whom a certificate has been issued may, by appropriate endorsement thereon by the Town Clerk, substitute another vehicle or vehicles for the vehicle or vehicles for which the certificate was granted. In such instance, the liability insurance or bonds shall also be transferred to the substitute vehicle.

(`92 Code, § 65.03) Penalty, see § 10.99

**§ 116.04 REVOCATION OF CERTIFICATE.**

(A) The Board of Aldermen may at any time after a public hearing revoke any certificate of convenience and necessity issued by authority of § 116.03 for any one or more of the following causes:

(1) Failure to operate the taxicabs specified in the certificate in such manner as to serve the public adequately and efficiently;

(2) Failure to maintain motor equipment in good repair;

(3) Failure to carry liability insurance or bond as may be required by state law, this chapter or other town ordinance;

(4) Failure to pay to the town privilege license fee;

(5) Repeated and persistent violation by the taxicab drivers of traffic and safety ordinances, or state laws relating to alcoholic beverages or prostitution;

(6) Failure to report accidents;

(7) Willful failure to comply with any provision of this chapter or other provisions of this code or other ordinances or state laws relating to the operation of taxicabs;

(B) No certificate of convenience and necessity shall be revoked until the owner has had at least five 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 prescribed in division (A), the Board of Aldermen shall have the power to revoke the certificate or to condition a revocation upon compliance with its order, within any time fixed by it.

(`92 Code, § 65.04)

**§ 116.05 AUTHORITY TO LIMIT RATES.**

The Board of Aldermen shall have the authority, if it feels that excessive rates are being charged by any person operating a taxi in the town, to set reasonable limits on the fares charged. Failure to conform to any rate limitations that may be set may result in revocation of the certificate of convenience and necessity.

(`92 Code, § 65.05) Penalty, see § 10.99

**§ 116.06 REFUSAL TO PAY FARE.**

Any person who shall fail or refuse to pay the fare due for transportation provided by a duly licensed taxicab shall be guilty of a misdemeanor punishable as provided by § 10.99.

(`92 Code, § 65.06) Penalty, see § 10.99

**§ 116.07 TRANSPORTATION FOR UNLAWFUL PURPOSES.**

It shall be unlawful for any operator of a taxicab to knowingly transport any person engaged in, or for the purposes of engaging in, immoral or unlawful activities. Violation of this section shall constitute grounds for revocation of an operator's certificate.

(`92 Code, § 65.07) Penalty, see § 10.99

**§ 116.08 LIABILITY INSURANCE.**

No person licensed by the governing body to operate a taxicab within the corporate limits of the town, or the person's agent, employer or servant, shall haul, transport or permit any person to ride in the taxicab, at any time the taxicab is being operated for hire in the corporate limits of the town without first having obtained a policy of insurance, to be approved by the governing body in the amount of \$100,000 bodily injury liability, conditioned on such person (owner and/or operator of the taxicab) responding in damages for any liability insured on account of any injury to the persons riding in the taxicab, resulting from the operation of the taxicab.

***FOR-HIRE PICKUP TRUCKS*****§ 116.20 DEFINITIONS.**

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

***FOR HIRE PICKUP TRUCKS.*** Any truck specified by the manufacturer as having a load or carrying capacity of one ton or less, and for which a service license tag has been procured from the State of North Carolina.

***HIGHWAY.*** 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 or right for the purposes of vehicular traffic and shall include any highway, street, road, alley, or driveway open to the use of the public as a matter of right for the purposes of vehicular traffic, but is not limited thereto.

***PERSON.*** Any individual, firm, co-partnership, association, or corporation.  
(`92 Code, § 65.15) (Ord. passed 3-3-50)

**§ 116.21 OPERATOR'S APPLICATION.**

No person shall operate a for-hire pickup truck on any highway within the corporate limits of the town without first having made application to the governing body of the town for a license to operate the truck within the corporate limits of the town. No person shall operate a for-hire pickup truck on any

highway within the corporate limits of the town without first having obtained a license from the governing body of the town, authorizing and permitting the person to operate the truck within the town. In making the application to the governing body, the person shall supply the following information on form application blanks to be furnished by the town, and the application shall be signed by the applicant: name, age, type of operator's license, physical defects, conviction of violating motor vehicle laws. (<sup>^</sup>92 Code, § 65.16) (Ord. passed 3-3-50)

**§ 116.22 LIABILITY INSURANCE.**

No person licensed by the governing body to operate a for-hire pickup truck within the corporate limits of the town, or the person's agent, employer or servant, shall haul, transport or permit any person to ride in the truck, at any time the truck is being operated for hire in the corporate limits of the town without first having obtained a policy of insurance, to be approved by the governing body in the amount of \$100,000 bodily injury liability, conditioned on such person (owner and/or operator of the truck) responding in damages for any liability insured on account of any injury to the persons riding in the for-hire pickup truck, resulting from the operation of the for-hire pickup truck. (<sup>^</sup>92 Code, § 65.17) (Ord. passed 3-3-50)

**§ 116.23 TERM OF LICENSE.**

A license issued under the provisions of this subchapter by the governing body shall be issued for a period of 12 months. (<sup>^</sup>92 Code, § 65.18) (Ord. passed 3-3-50)

**§ 116.24 REVOCATION OF LICENSE.**

The governing body shall have authority in its discretion to revoke any license issued under this subchapter upon the conviction of any licensee, or licensee's servant, employee, or agent, of the violation of any of the terms or provisions of this subchapter. (<sup>^</sup>92 Code, § 65.19) (Ord. passed 3-3-50)

**§ 116.25 REFUSAL TO ISSUE LICENSE.**

The governing body shall have authority in its discretion to refuse to issue a license to any applicant who has been convicted of having violated any of the provisions of this subchapter, has any physical impairment which would affect the applicant's driving ability, or who is a constant violator of the motor vehicle laws. (<sup>^</sup>92 Code, § 65.20) (Ord. passed 3-3-50)

**§ 116.26 ENFORCEMENT.**

It shall be the duty of the Police Department to enforce the provisions of this subchapter. ('92 Code, § 65.21) (Ord. passed 3-3-50)

***PARKING REGULATIONS*****§ 116.40 DEFINITIONS.**

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

***FOR-HIRE TRUCK.*** Any and all trucks maintained or operated for hire.

***PERSON.*** Any individual, firm, co-partnership, association, corporation or any person or group of persons.

***TAXICAB.*** Any and all passenger carrying vehicles maintained or operated for hire. ('92 Code, § 65.30) (Ord. passed 6-9-50)

**§ 116.41 USE OF STREETS PROHIBITED IN CERTAIN AREAS.**

No person, taxicab operator or for-hire truck operator shall, between the hours of 7:00 a.m. and 10:00 p.m. of each and every day, park a taxicab or for-hire truck on Everett Street, between the bridge crossing Tuckasegee River and Academy Street, or on Main Street between the alleyway on the east side of the old Kephart Tavern Building and the west side of the Myers Tourist Court property, for the purpose of soliciting business. No person, taxicab operator or for-hire truck operator shall use those portions of those streets for or in connection with the taxicab or for-hire truck business. No person, taxicab operator or for-hire truck operator shall use those portions of those streets as a depot or terminal for or in connection with the taxicab or for-hire truck business. No taxicab operator or for-hire truck operator shall use those portions of those streets except for the purpose of transporting, loading and unloading of passengers and/or property.

('92 Code, § 65.31) (Ord. passed 6-9-50) Penalty, see § 10.99

**§ 116.42 ENFORCEMENT.**

It shall be the duty of the Police Department to enforce the provisions of this subchapter.  
(`92 Code, § 65.32) (Ord. passed 6-9-50)





## CHAPTER 150: BUILDING REGULATIONS

### Section

#### *Adoption of Regulatory Codes by Reference*

- 150.01 Scope
- 150.02 Building Code adopted
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- 150.04 Heating Code adopted
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- 150.06 Residential Building Code adopted
- 150.07 Amendments to codes
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#### *Building Condemnation*

- 150.25 Definitions
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- 150.27 Petition
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- 150.32 Appeal
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#### *Repair, Closing, or Demolition of Abandoned Structures*

- 150.50 Finding; intent
- 150.51 Duties of the County Building Inspector
- 150.52 Powers of the County Building Inspector
- 150.53 Standards for enforcement
- 150.54 Procedure for enforcement
- 150.55 Methods of service of complaints and orders
- 150.56 In rem action by County Building Inspector; placarding
- 150.57 Costs a lien on premises
- 150.58 Alternative remedies

***ADOPTION OF REGULATORY CODES BY REFERENCE*****§ 150.01 SCOPE.**

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; and

(D) The installation, erection, alteration, repair, use, and maintenance of electrical systems and appurtenances thereof.

(`92 Code, § 90.01)

**§ 150.02 BUILDING CODE ADOPTED.**

The North Carolina State Building Code (Volume I, General Construction) current edition, as adopted by the North Carolina Building Code Council and as amended, is adopted by reference as fully as though set forth herein.

(`92 Code, § 90.02)

**§ 150.03 PLUMBING CODE ADOPTED.**

The North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing) current edition as adopted by the North Carolina Building Code Council and as amended, is adopted by reference as fully as though set forth herein.

(`92 Code, § 90.03)

**§ 150.04 HEATING CODE ADOPTED.**

The North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating) current edition as adopted by the North Carolina Building Code Council and as amended, is adopted by reference as fully as though set forth herein.  
(`92 Code, § 90.04)

**§ 150.05 ELECTRICAL CODE ADOPTED.**

The North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical) current edition, as adopted by the North Carolina Building Code Council and as amended, is adopted by reference as fully as though set forth herein.  
(`92 Code, § 90.05)

**§ 150.06 RESIDENTIAL BUILDING CODE ADOPTED.**

The North Carolina Uniform Residential Building Code, current edition with amendments, as adopted by the North Carolina Building Code Council, is adopted by reference as fully as though set forth herein.  
(`92 Code, § 90.06)

**§ 150.07 AMENDMENTS TO CODES.**

Amendments to the regulatory codes adopted by reference herein, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the town.  
(`92 Code, § 90.07)

**§ 150.08 COMPLIANCE WITH CODES.**

(A) All buildings or structures which are hereafter 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 State Building Code, whichever is applicable, or of both if both are applicable.

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(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).  
(`92 Code, § 90.08)

**§ 150.09 COUNTY TO ENFORCE.**

The appropriate Swain County officials shall issue all permits, make all inspections, enforce all state codes adopted above, and enforce the applicable provisions of the County Building Code and this chapter within the corporate limits of the town.  
(`92 Code, § 90.09)

## ***BUILDING CONDEMNATION***

### **§ 150.25 DEFINITIONS.**

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

***DWELLING.*** Any building or structure or any part thereof situate in the corporate limits of the town.

***GOVERNING BODY.*** The Board of Aldermen.

***PARTIES IN INTEREST.*** All individuals, associations, and corporations who have interest or record in a dwelling or any who are in possession thereof.

**PUBLIC AUTHORITY.** Any authority or any officer who is in charge of any department or branch of the government of the town, Swain County, or State or North Carolina, relating to health, fire, building regulations, or other activities concerning dwelling and buildings in the town.

**PUBLIC OFFICER.** The officer who is appointed by the governing body to exercise the powers prescribed by this subchapter.  
(`92 Code, § 90.20) (Ord. passed 2-19-50)

**§ 150.26 PUBLIC OFFICER APPOINTED.**

A public officer shall be appointed by the governing body to exercise the powers prescribed by this subchapter.  
(`92 Code, § 90.21) (Ord. passed 2-19-50)

**§ 150.27 PETITION.**

Whenever a petition is filed with the public officer by an authority or by at least five residents of the town, charging that any dwelling or building situated in the town is dangerous to life, health or other property, or whenever it appears to the public officer (on his own motion) that any dwelling is dangerous to life, health or other property, then the public officer 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, a complaint stating the charges in that respect and containing a notice that hearing will be held before the public officer (or his designated agent) at a place within the town therein fixed, not less than ten days and not more than 30 days after the serving of the complaint; that the owner and parties 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; and that the rules or evidence prevailing in courts or law or equity shall not be controlling in hearings before the public officer.  
(`92 Code, § 90.22) (Ord. passed 2-19-50)

**§ 150.28 FINDINGS OF FACT.**

If, after such notice and hearing, the public officer determines that the dwelling under consideration is dangerous to life, health or other property, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner and occupant thereof an order to immediately vacate the dwelling and require the owner within a period of 90 days to remove or demolish such dwelling.  
(`92 Code, § 90.23) (Ord. passed 2-19-50)

**§ 150.29 FAILURE TO COMPLY WITH ORDER.**

If the occupant fails to comply with an order to vacate such dwelling, the public officer may cause such dwelling to be vacated by issuing an order to the Chief of Police ordering him to forthwith and immediately vacate such dwelling. If the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished: provided, however, that the duties of the public officer set forth in this section shall not be exercised until the governing body shall have by ordinance ordered the public officer to effectuate the purpose of this subchapter with respect to the particular property or properties which the public officer shall have found to be dangerous to life, health or other property, and which property or properties shall be described in this subchapter.

(`92 Code, § 90.24) (Ord. passed 2-19-50)

**§ 150.30 COST OF REMOVING OR DEMOLISHING.**

The cost of removing or demolishing the dwelling by the public officer shall be a lien against the real property upon which such cost was incurred. If the dwelling is removed or demolished by the public officer he shall sell the materials of the dwelling and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be paid to the owner by the public officer.

(`92 Code, § 90.25) (Ord. passed 2-19-50)

**§ 150.31 SERVICE OF COMPLAINTS NOTICES AND ORDERS.**

Complaints, notices and orders issued by a public officer pursuant to this subchapter shall be served upon the owner of the building or structure pursuant to G.S. § 160A-428. If the whereabouts of such person is unknown, notice shall be posted or published as set forth in G.S. § 160A-428.

(`92 Code, § 90.26)

**§ 150.32 APPEAL.**

An appeal may be taken from any and all findings of fact or conclusions of law rendered by the public officer to the Superior Court of Swain County in the same manner as provided by the General Statutes of North Carolina for taking an appeal from a judgment of a Justice of the Peace to the Superior Court.

(`92 Code, § 90.27) (Ord. passed 2-19-50)



**§ 150.33 COMPENSATION.**

Nothing in this subchapter shall be construed as preventing the owner or owners of any property from receiving just compensation for the taking of such property by the power of eminent domain under the laws of the State of North Carolina, nor as permitting any property to be condemned or destroyed except and in accordance with the police power of the state.

(`92 Code, § 90.28) (Ord. passed 2-19-50)

## ***REPAIR, CLOSING, OR DEMOLITION OF ABANDONED STRUCTURES***

### **§ 150.50 FINDING; INTENT.**

It is found that there exist within the town abandoned structures which the Board finds to be hazardous to the health, safety, and welfare of the residents of the town due to the attraction of insects or rodents; conditions creating a fire hazard; dangerous conditions constituting a threat to children; or frequent use by vagrants as living quarters in the absence of sanitary facilities. Therefore, pursuant to the authority granted by G.S. § 160A-441, it is the intent of this subchapter to provide for the repair, closing, or demolition of 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.

(`92 Code, § 90.50)

### **§ 150.51 DUTIES OF THE COUNTY BUILDING INSPECTOR.**

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

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

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

(`92 Code, § 90.51)

**§ 150.52 POWERS OF THE COUNTY BUILDING INSPECTOR.**

The County 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 on 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 as he deems necessary to carry out the provisions of this subchapter.

(`92 Code, § 90.52)

**§ 150.53 STANDARDS FOR ENFORCEMENT.**

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

(1) The attraction of insects or rodents;

(2) Conditions creating a fire hazard;

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

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

(B) In making the preliminary determination of whether or not an abandoned structure is in violation of this subchapter, the County 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 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, or the fire prevention code which constitute a fire hazard in the structure;

(4) The collection of garbage, rubbish, or combustible material which constitutes a fire hazard in the structure;

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

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

(7) Repeated use of the structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking, or eating.  
(`92 Code, § 90.53) Penalty, see § 10.99

**§ 150.54 PROCEDURE FOR ENFORCEMENT.**

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the County Building 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, on inspection, that any structure exists in violation hereof, the Building Inspector shall, if the preliminary investigation discloses a basis for such charges, issue and cause to be served on the owner of and parties whose interest is in the 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. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the structure. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(B) *Procedure after hearing.* After the notice and hearing, the Inspector shall state in writing his determination as to whether the structure violates this subchapter. If the Inspector determines that the dwelling is in violation, the Inspector shall state in writing the findings of fact to support such determination, and shall issue and cause to be served on the owner thereof an order directing and requiring the owner to either repair, alter, and improve the structure or else remove or demolish the same within a specified period of time not to exceed 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 petition the superior court for an order directing the owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

(2) *In rem remedy.* After failure of an owner of a structure to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (C)(1) above, the Inspector shall cause the structure to be removed or demolished, as provided in the original order of the Inspector, and pending the removal or demolition, to placard 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).

(`92 Code, § 90.54)

**§ 150.55 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.**

Complaints or orders issued by the County Building Inspector shall be served on persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of the complaint or order on such person may be made by publication once at least ten days prior to the hearing 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.

(`92 Code, § 90.55)

**§ 150.56 IN REM ACTION BY COUNTY BUILDING INSPECTOR; PLACARDING.**

(A) After failure of an owner of a structure to comply with an order of the County Building Inspector issued pursuant to the provisions of this subchapter, the Inspector shall proceed to cause the structure to be removed or demolished, and shall cause to be posted on the main entrance of the structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

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

(`92 Code, § 90.56) Penalty, see § 10.99

**§ 150.57 COSTS A LIEN ON PREMISES.**

As provided by G.S. § 160A-443(6), the amount of the cost of any removal or demolition caused to be made or done by the County Building Inspector pursuant to this subchapter shall be a lien against the real property on which the cost was incurred. The lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. §§ 160A-216 *et seq.*  
(`92 Code, § 90.57)

**§ 150.58 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.  
(`92 Code, § 90.58)

**Bryson City - Land Usage**

## CHAPTER 151: FLOOD DAMAGE PREVENTION

### Section

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- 151.40 Designation of local administrator
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- 151.43 Administrative procedures
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**GENERAL PROVISIONS****§ 151.01 STATUTORY AUTHORIZATION.**

The Legislature of the State of North Carolina has in §§ 143-215.51 through 143-215.61 Parts 3, 5, and 8 of Article 19 of Chapter 160A (G.S. §§ 160A-331 *et seq.*, 160A-456 *et seq.*); and G.S. Article 8 of Chapter 160A (G.S. §§ 160A-174 *et seq.*), delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Mayor and Board of Aldermen do ordain this chapter.  
(`92 Code, § 91.01) (Ord. passed 8-6-90)

**§ 151.02 FINDINGS OF FACT.**

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

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.  
(`92 Code, § 91.02) (Ord. passed 8-6-90)

**§ 151.03 STATEMENT OF PURPOSE.**

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

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

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

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

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

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(`92 Code, § 91.03) (Ord. passed 8-6-90)

**§ 151.04 OBJECTIVES.**

The objectives of this chapter are:

(A) To protect human life and health;

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

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

(D) To minimize prolonged business interruptions;

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

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

(G) To insure that potential home buyers are notified that property is in a flood area.

(`92 Code, § 91.04) (Ord. passed 8-6-90)

**§ 151.05 DEFINITIONS.**

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

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

**APPEAL.** A request from a review of the local administrator's interpretation of any provision of this chapter.

**AREA OF SHALLOW FLOODING.** A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD.** The land in the floodplain within a community subject to a 1% or greater chance of being equaled or exceeded in any given year.

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

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

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

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

**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, or storage of equipment or materials.

**ELEVATED BUILDING.** A non-basement building (a) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, or X to have the top of the elevated floor, or in the case of a building in Zones V1-V30, VE, or V to have the bottom of the lowest horizontal structural member of the elevated floor above the ground by means of pilings, columns (posts and piers), shear walls parallel to the flow of water and, (b) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, and X, "**ELEVATED BUILDING**" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the area below is enclosed by means of breakaway-walls if the breakaway walls meet the standards of § 151.26(E).

***EXISTING MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION.***

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of street and either final site grading or the pouring of concrete pads) is completed before the effective date of this chapter.

***EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.*** The preparation of the additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

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

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

***FLOOD HAZARD BOUNDARY MAP (FHBM).*** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

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

***FLOOD INSURANCE STUDY.*** The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

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

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

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

**HISTORIC STRUCTURE.** Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places;

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of Interior in states without approved programs.

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

**LEVEE.** A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**LOWEST FLOOR.** The lowest floor of the lowest unclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term **MANUFACTURED HOME** does not include a **RECREATIONAL VEHICLE**.

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

**NEW CONSTRUCTION.** Structures for which the "**START OF CONSTRUCTION**" commenced on or after the effective date of this chapter and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after the effective date of this chapter.

**NONCONFORMING BUILDING OR USE.** Any legally existing building or use which fails to comply with the provisions of this chapter.

**RECREATIONAL VEHICLE.** A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REMEDY A VIOLATION.** To bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

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**START OF CONSTRUCTION.** (For other than new construction or substantial improvement, under the Coastal Barrier Resources Act (16 USC 3501 *et seq.*)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit data. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the sewage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE.** For floodplain management purposes, a walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other man-made facilities or infrastructures that are principally above ground.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost if restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of "**SUBSTANTIAL IMPROVEMENT.**"

**SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "**START OF CONSTRUCTION**" of the improvement. This term includes structures which have incurred "**SUBSTANTIAL DAMAGE,**" regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project of improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

**VIOLATION.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 151.25 through 151.29 and 151.40 through 151.44 is presumed to be in violation until such time as that documentation is provided.

(`92 Code, § 91.05) (Ord. passed 8-6-90)

**§ 151.06 LANDS TO WHICH THIS CHAPTER APPLIES.**

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

(`92 Code, § 91.06) (Ord. passed 8-6-90)

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

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study dated June 4, 1984 with accompanying maps and other supporting data, and any revision thereto are adopted by reference and declared to be a part of this chapter.

(`92 Code, § 91.07) (Ord. passed 8-6-90)

**§ 151.08 ESTABLISHMENT OF DEVELOPMENT PERMIT.**

A development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.

(`92 Code, § 91.08) (Ord. passed 8-6-90)

**§ 151.09 COMPLIANCE.**

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

(`92 Code, § 91.09) (Ord. passed 8-6-90)

**§ 151.10 ABROGATION AND GREATER RESTRICTIONS.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(`92 Code, § 91.10) (Ord. passed 8-6-90)



**§ 151.11 INTERPRETATION.**

In the interpretation and application of this chapter all provisions shall be considered as minimum requirements; liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under state statutes.

(`92 Code, § 91.11) (Ord. passed 8-6-90)

**§ 151.12 WARNING AND DISCLAIMER OF LIABILITY.**

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

(`92 Code, § 91.12) (Ord. passed 8-6-90)

## ***FLOOD HAZARD REDUCTION***

### **§ 151.25 GENERAL STANDARDS.**

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

(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement in accordance with the *Regulations for Mobile Homes and Modular Housing* adopted by the Commissioner of Insurance pursuant to G.S. § 143.143.15.

(C) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(D) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;

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

(F) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and

(I) Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this chapter, shall meet the requirements of new construction as contained in this chapter.

(J) Non-conforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this chapter. Provided, however nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the Floodway Zone, provided that the bulk of the building or structure below base flood elevation in the Floodway Zone is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(^92 Code, § 91.25) (Ord. passed 8-6-90) Penalty, see § 151.99

#### **§ 151.26 SPECIFIC STANDARDS.**

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in § 151.07 or § 151.42(J), the following provisions are required:

(A) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than zero feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided.

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(B) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential structure shall have the lowest floor, including basement, elevated no lower than zero feet above the level of the base flood elevation. Structures located in A-zones may be flood-proofed in lieu of elevation provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in § 151.41(E).

(C) *Manufactured homes.*

(1) Manufactured homes that are placed or substantially improved within Zones A1-A30, AH, and AE on sites outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than zero feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(2) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-A30, AH, and AE that are not subject to the provisions of division (C)(1) above must be elevated so that either the lowest floor of the manufactured home is elevated no lower than zero feet above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

(3) An evacuation plan must be developed for evacuation of all residents of a manufactured home park or subdivisions located within flood prone areas and filed with and approved by the county or local Emergency Management Coordinator.

(D) *Recreational vehicles.* Recreation vehicles placed on sites within Zones A1-30, AH, or AE shall either be on site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet the requirements of §§ 151.25, 151.26(C) and 151.41. A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

(E) *Elevated buildings.* New construction or substantial improvements of related buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to preclude finished living space, be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above grade; and,

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided the permit the automatic flow of floodwaters in both directions.

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.

(F) *Floodways.* Located within areas of special flood hazard established in § 151.07, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the local administrator.

(2) If division (F)(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this subchapter.

(3) No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of § 151.25(B) and the elevation standards of division (C) above are met.

(`92 Code, § 91.26) (Ord. passed 8-6-90) Penalty, see § 151.99

#### **§ 151.27 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAYS.**

Located within the areas of special flood hazard established in § 151.07, are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of the stream bank equal to times the width of the stream at the top of bank or 20 feet each side from top of bank, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If division (A) above is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of this subchapter and shall be elevated or flood-proofed in accordance with elevations established in accordance with § 151.42(J). When base flood elevation data is not available from a federal, state, or other source, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.

(`92 Code, § 91.27) (Ord. passed 8-6-90) Penalty, see § 151.99

#### **§ 151.28 STANDARDS FOR SUBDIVISION PROPOSALS.**

(A) All subdivision proposals shall be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots or five acres.

(`92 Code, § 91.28) (Ord. passed 8-6-90) Penalty, see § 151.99

**§ 151.29 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES).**

(A) Located within the areas of special flood hazard established in § 151.07, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.

(B) The following provisions shall apply within such areas:

(1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.

(2) All new construction and substantial improvements of non-residential structures shall:

(a) Have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or

(b) Be completely flood-proofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(`92 Code, § 91.29) (Ord. passed 8-6-90) Penalty, see § 151.99

***ADMINISTRATION AND ENFORCEMENT***

**§ 151.40 DESIGNATION OF LOCAL ADMINISTRATOR.**

The Town Clerk/Manager is hereby appointed to administer and implement the provisions of this chapter.

(`92 Code, § 91.40) (Ord. passed 8-6-90)



**§ 151.41 DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.**

(A) Application for a development permit shall be made to the local administrator on forms furnished by him or her prior to any development activities.

(B) The development permit may include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill, materials storage areas, and drainage facilities. Specifically, the following information is required:

(1) Where base flood elevation data is provided in accordance with § 151.42(J), the application for a development permit within the Zone A on the Flood Insurance Rate Map shall show:

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

(b) If the structure has been floodproofed in accordance with § 151.26(B), the elevation (in relation to mean sea level) to which the structure was floodproofed.

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

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

(4) When a structure is floodproofed, the applicant shall provide a certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure meets the flood-proofing criteria in § 151.26(B).

(5) A floor elevation or flood-proofing certification is required after the lowest floor is completed. Within 21 calendar days of establishment of the lowest floor elevation, or flood-proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator a certification of the elevation of the lowest floor, or flood-proofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by

or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The local administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.  
(`92 Code, § 91.41) (Ord. passed 8-6-90)

#### **§ 151.42 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.**

Duties of the local administrator shall include, but not be limited to:

(A) Review all development permits to assure that the requirements of this chapter have been satisfied;

(B) Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.

(C) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(E) Prevent encroachments within floodways unless the certification and flood hazard reduction provisions of §§ 151.25 through 151.29 are met.

(F) Obtain actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 151.41(E).

(G) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with § 151.41(E).

(H) When flood-proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with § 151.26(B).

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

(J) When base flood elevation data or floodway data has not been provided in accordance with § 151.07, obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, (or other source, including data developed pursuant to § 151.28(D)), in order to administer the provisions of this chapter.

(K) Make on-site inspections of projects in accordance with § 151.43.

(L) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with § 151.43.

(M) Maintain all records pertaining to the administration of this chapter and make these records available for public inspection.

(N) Annexation. Provide the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program with two copies of the maps delineating new corporate limits within six months from date of annexation or change in corporate boundaries.

(`92 Code, § 91.42) (Ord. passed 8-6-90)

**§ 151.43 ADMINISTRATIVE PROCEDURES.**

(A) *Inspections of work in progress.* As the work pursuant to a permit progresses, the local administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(B) *Stop-work orders.* Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(C) *Revocation of permits.* The local administrator may revoke and require the return of the development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(D) *Periodic inspections.* The local administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(E) *Violations to be corrected.* When the local administrator finds violations of applicable state and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall each immediately remedy the violations of law in the property he owns.

(F) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt, corrective action, the administrator shall give him written notice, by certified or registered mail to his last known address or by personal service:

- (1) That the building or property is in violation of the flood damage prevention ordinance;
- (2) That a hearing will be held before the local administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
- (3) That following the hearing, the local administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(G) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the administrator shall find that the building or development is in violation of the flood damage prevention ordinance, he shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, the administrator may prescribe; provided that where the administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

(H) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(I) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

( '92 Code, § 91.43) (Ord. passed 8-6-90)

#### **§ 151.44 VARIANCE PROCEDURES.**

(A) The Mayor and Board of Aldermen serve as the Board of Appeal for the town and shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Court, as provided in G.S. Chapter 7A.

(C) Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(D) In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage of the individual owner;
- (4) The importance of the services provided by the proposed facility to the continuity;
- (5) The necessity to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

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

(E) Upon consideration of the factors listed above and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

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

(G) Conditions for variances.

(1) Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

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

(3) Variances shall only be issued upon a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptions hardship; and determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(4) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

(5) The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(`92 Code, § 91.44) (Ord. passed 8-6-90)

**§ 151.99 PENALTY.**

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, final constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

(`92 Code, § 91.99) (Ord. passed 8-6-90)

## CHAPTER 152: MANUFACTURED HOME PARKS

### Section

#### *General Provisions*

- 152.01 Statutory authorization
- 152.02 Statement of purpose
- 152.03 Jurisdiction
- 152.04 Exceptions to applicability
- 152.05 Definitions

#### *Design Standards*

- 152.20 Manufactured home park classifications
- 152.21 Class I manufactured home parks
- 152.22 Class II manufactured home parks
- 152.23 Class III manufactured home parks
- 152.24 Buffer strip screen defined
- 152.25 General provisions

#### *Administration and Enforcement*

- 152.40 Ordinance Administrator
- 152.41 Required approval
- 152.42 Application for manufactured home park construction permit
- 152.43 Application for manufactured home park occupancy permit
- 152.44 Administrative review, variances and appeals
- 152.45 Notice of noncompliance
  
- 152.99 Penalty



**GENERAL PROVISIONS**

**§ 152.01 STATUTORY AUTHORIZATION.**

The legislature of the State of North Carolina has in G.S. § 160A-174, delegated the responsibility to local governments of promoting the public health, safety and general welfare.  
(Ord. passed 9-18-00)

**§ 152.02 STATEMENT OF PURPOSE.**

The purpose of this chapter is to provide for the proper and orderly development of manufactured home parks in the town. Manufactured homes are an important housing alternative to conventional single-family structures. The placement of manufactured homes in parks or clustered groups is a means of providing this housing in an attractive and affordable setting. These regulations are designed to insure that manufactured home parks promote the health, safety and welfare of their residents and do not create negative impacts on adjoining properties.  
(Ord. passed 9-18-00)

**§ 152.03 JURISDICTION.**

The provisions of this chapter shall apply to all areas of Bryson City, North Carolina.  
(Ord. passed 9-18-00)

**§ 152.04 EXCEPTIONS TO APPLICABILITY.**

(A) It is not intended that these regulations interfere with any easement, covenant or other agreement between the parties. However, if these regulations impose greater restrictions or higher standards for the use of a building or land, then these regulations shall control.

(B) Manufactured home parks existing at the time of the original adoption of this chapter, November 4, 1996, with spaces completed, ready for occupancy and/or occupied are exempt from the terms of this chapter. However, the manufactured home parks shall not be allowed to expand or increase in any manner unless the manufactured home parks meet the requirements of this chapter. Upon expansion it is the intent of this chapter that the entire manufactured home park, not just the expanded portion, shall be subject to the terms of this chapter. Furthermore, the classification within

which the manufactured home park falls will be determined by the number of spaces/sites within the park, not just the expanded portion. Additionally, in the event that one or more manufactured homes in any such park existing as of November 4, 1996 is removed from the park or is destroyed by fire or other casualty, such home may not be replaced unless the park meets the requirements of this chapter.

(C) The issuance of a manufactured home park permit or occupancy permit does not constitute or imply the acceptance, dedication or maintenance of any street or other ground easement, utility line or other facility by the town.

(Ord. passed 9-18-00)

### § 152.05 DEFINITIONS.

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

**MANUFACTURED HOME.** A detached manufactured housing unit built on a chassis, with a body exceeding eight feet in width and a body length of at least 32 feet; that said residential dwelling unit shall be designed for transportation after fabrication on its own wheels or flatbeds, or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy except for minor and incidental unpacking and assembly operations, including but not limited to, location on jacks or other temporary or permanent foundations, and connection to utilities. Single-section, multi-section and modular housing units shall be considered as **MANUFACTURED HOMES**; however, recreation vehicles and campers shall not be considered a **MANUFACTURED HOME**.

**MANUFACTURED HOME PARK.** Any plot of ground, regardless of its size or the number of contiguous tracts within which it may have been subdivided, upon which three or more manufactured homes, manufactured home sites, or combination thereof, are located and available for rent or lease for dwelling or sleeping purpose.

(Ord. passed 9-18-00)

### **DESIGN STANDARDS**

### § 152.20 MANUFACTURED HOME PARK CLASSIFICATIONS.

For the purpose of this chapter, three manufactured home park classifications have been established as follows:

(A) *Class I.* Parks with at least three manufactured homes but less than ten.

(B) *Class II.* Parks with at least ten manufactured homes but less than 25.

(C) *Class III.* Parks with 25 or more manufactured homes.  
(Ord. passed 9-18-00)

#### § 152.21 CLASS I MANUFACTURED HOME PARKS.

Class I manufactured home parks shall comply with the following design standards:

(A) *Roads and drainage.* Interior roads shall be constructed with drainage systems that prevent water from standing or pooling in the road or its shoulder or with minimum construction standards for secondary roads as adopted by the North Carolina Division of Highways.

(B) *Utilities.*

(1) An accessible, adequate, safe and potable supply of water shall be provided in accordance with the standards of the Water Supply Branch of the North Carolina Department of Environment, Health and Natural Resources and/or Swain County Health Department.

(2) An adequate and safe sewage disposal facility shall be provided in accordance with the standards of the Division of Environmental Management of the North Carolina Department of Environment, Health and Natural Resources and/or Swain County Health Department.

(C) *Lots, unit sites, buffers and setbacks.*

(1) Each manufactured home shall have an identification number at least four inches high and placed in a conspicuous location that is clearly visible from the access road.

(2) Any portion of a proposed manufactured home park that is within 200 feet from an existing residence and visible from the residence (other than that of the park owner) shall be screened from view with a buffer strip along the property line facing the residence. The buffer requirement may be satisfied by existing natural vegetation meeting the intent of this chapter, provided that the natural vegetation is owned by the manufactured home park owner. If the said existing residence is elevated above the proposed park to the extent that a mature natural or planted tree buffer would not screen the residence, the Ordinance Administrator may waive this requirement.

(3) At least two automobile parking spaces shall be provided for each manufactured home site. Additions to individual manufactured homes or other improvements to property shall not interfere with minimum parking requirements. No portion of the required spaces shall be within a street right-of-way or in any other designated setback area.

(4) Manufactured home setbacks:

(a) Setbacks from boundary lines - 15 feet, except when adjacent property is owned by the same person or entity owning manufactured home park.

(b) Front and rear of each manufactured home shall have at least 30 feet setback between units.

(c) The ends of each manufactured home shall have a setback of at least 30 feet between other manufactured homes.

(d) Unenclosed porches and decks may protrude into the setback requirements a maximum of eight feet wide and maximum length of one half the length of the wall of the mobile home. This does not limit the maximum length or width of porches or decks that do not protrude into the setback requirements.

(5) The elevation of the first habitable floor of all structures in the 100 year flood plain shall be above the base flood elevation in accordance with the Bryson City Flood Damage Prevention Ordinance.

(6) The surface area adjacent to the foundation shall be provided with adequate drainage and shall be graded so as to drain surface water away from foundation walls in accordance with the regulations of manufactured/mobile homes.

(7) Each manufactured home, upon being installed on a manufactured home foundation, shall have stabilizing devices made up of a combination of ties, anchoring equipment and ground anchors in accordance with regulations for manufactured/mobile homes and Bryson City Flood Damage Prevention Ordinance.

(8) Manufactured homes shall be underpinned within 90 days of installation or within 90 days of expansion of a manufactured home park that causes said park to come within the terms of this chapter.

(9) If a manufactured home burns and is uninhabitable, the unit and all associated debris shall be removed from the premises within 90 days after the fire.

(Ord. passed 9-18-00) Penalty, see § 152.99

**§ 152.22 CLASS II MANUFACTURED HOME PARKS.**

Class II manufactured home parks shall comply with the requirements for Class I manufactured home parks, plus the following design standards:

*Roads and drainage.* Interior roads shall be constructed with an all weather surface that is at least 12 feet wide and with at least a four-foot shoulder on each side of the road that is free of any obstruction and can allow easy passage of emergency vehicles.

(Ord. passed 9-18-00) Penalty, see § 152.99

**§ 152.23 CLASS III MANUFACTURED HOME PARKS.**

Class III manufactured home parks shall comply with the requirements for Class I and Class II manufactured home parks, plus the following design standards:

(1)(A) Interior roads shall be constructed with the following additional standards:

(1) Permanent dead end streets or cull-de-sac streets shall have a bulb or other suitable means for vehicles to turn around at the closed end. Bulbs shall have a diameter of at least 40 feet.

(2) All roads or portions thereof with a slope of 15% or greater shall be paved with asphalt or concrete.

(B) All parks shall either have at least 30 feet of frontage on a state maintained road or provide access to the park through adjoining properties, consistent with the terms of this chapter, under a joint maintenance agreement recorded with the Swain County Register of Deeds.

(Ord. passed 9-18-00) Penalty, see § 152.99

**§ 152.24 BUFFER STRIP SCREEN DEFINED.**

(A) Buffer strip screens shall be free of all encroachments by buildings, parking areas, or impervious coverage and may incorporate trees, shrubs, walls, fences, beams and/or other natural or created topographic features. However, the Ordinance Administrator may require the use of trees when neighboring residences are elevated due to topography.

(B) Shrubs and/or trees may be used as natural screening provided that when trees are used, only varieties which bear limbs and foliage down to within one foot of ground level shall be allowed.

(C) Trees installed as a planted screen shall be evergreen and of a variety which are a minimum height of three feet when planted and which can be expected to reach a height of at least six feet within four years of planting.

(D) Shrubs shall be a minimum of three feet at planting and expected to reach six feet within four years.

(E) Walls or fences shall be opaque and shall be a minimum of six feet in height as measured from the ground up along the adjoining property line.

(F) Grasses and/or landscaped berms or other topographic features may be used as screening provided that such screening reaches a height of at least six feet within three years of its establishment. All soil slopes shall be stabilized and vegetated.  
(Ord. passed 9-18-00) Penalty, see § 152.99

**§ 152.25 GENERAL PROVISIONS.**

(A) All manufactured home parks shall post a permanent and clearly visible identification sign at each park entrance. Signs shall be constructed of materials that will not rapidly deteriorate, fade, fall apart or in any way become a hazard to the public health, safety and general welfare.

(B) The owner/operator of a manufactured home park that rents spaces and/or homes is responsible for the maintenance of the park and the enforcement of all restrictions, setbacks and parking requirements. The manufactured home park owner/operator shall record an enforceable operation and maintenance agreement with the Swain County Register of Deeds Office.  
(Ord. passed 9-18-00) Penalty, see § 152.99

***ADMINISTRATION AND ENFORCEMENT***

**§ 152.40 ORDINANCE ADMINISTRATOR.**

The Mayor shall assign the responsibility of administering and enforcing the manufactured home park ordinance to the appropriate personnel of Swain County, N.C., who shall be referred to as the Ordinance Administrator.  
(Ord. passed 9-18-00)

**§ 152.41 REQUIRED APPROVAL.**

Manufactured home parks shall not be established, altered or expanded until a construction permit has been issued by the Ordinance Administrator and said improvements shall not be occupied until an occupancy permit has been issued.

(Ord. passed 9-18-00) Penalty, see § 152.99

**§ 152.42 APPLICATION FOR MANUFACTURED HOME PARK CONSTRUCTION PERMIT.**

(A) Application for a manufactured home park construction permit shall be available at the office of the Ordinance Administrator during normal business hours. In addition to information requested on this form, the Ordinance Administrator may request additional information to insure a thorough and complete review of the application.

(B) The Ordinance Administrator shall dispose of the completed application within five business days of its receipt as noted by the initials and date of the Ordinance Administrator on the application form. However, a request for additional information shall suspend this time requirement until the requested information has been accepted by the Ordinance Administrator as complete.

(C) The Ordinance Administrator shall either approve or deny the application as presented. If approved, the Ordinance Administrator shall issue a manufactured home park construction permit without delay. If denied, the Ordinance Administrator shall issue a letter to the applicant stating that the application has been denied and referencing the reasons for this decision. The Administrator shall also explain the specific corrections or steps that need to be taken by the applicant in order for a construction permit to be issued.

(D) Upon the issuance of a construction permit, the permittee may make the specified improvements. Any deviation from the approved plans shall require approval from the Ordinance Administrator.

(E) Manufactured home park construction permits shall be valid for two years.  
(Ord. passed 9-18-00)

**§ 152.43 APPLICATION FOR MANUFACTURED HOME PARK OCCUPANCY PERMIT.**

(A) Upon the completion of all improvements authorized under the manufactured home park construction permit, the applicant shall call the Ordinance Administrator and request an inspection.

(B) The Ordinance Administrator shall inspect the improvements within two business days of the request and shall be prepared to issue an occupancy permit on-site at the time of the inspection if all improvements have been made in accordance with the approved plans. If the Ordinance Administrator finds that the improvements are not consistent with the approved plans and the terms of this chapter, the Administrator shall also explain the specific corrections or steps that need to be taken by the applicant in order for this occupancy permit to be issued. The Administrator shall inspect as outlined in this section.

(C) Manufactured home park occupancy permits shall be valid until such time that the park no longer meets the definition of a manufactured home park, plus 90 days.  
(Ord. passed 9-18-00)

**§ 152.44 ADMINISTRATIVE REVIEW, VARIANCES AND APPEALS.**

(A) The Board of Aldermen shall hear and decide appeals from any decisions or determinations made by the Ordinance Administrator. Appeals shall be submitted in writing to the Ordinance Administrator within 30 days of the decision or determination and shall be heard by the Board in a timely fashion. Appeals may be made by the owner/operator of the park, the occupants of the park and/or the owner of any residence within 200 feet of the park.

(B) The Board of Aldermen shall have the power to authorize variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will result in practical difficulties or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

(1) A request for variance shall be made in writing and shall fully detail the proposal together with any pertinent information which the applicant feels would be helpful in considering the request.

(2) A request for variance shall be heard by the Board within 45 days of its receipt by the Ordinance Administrator.

(3) Where a request for variance concerns the buffer requirements from adjoining residential property, the Ordinance Administrator shall send a copy of the proposed request and a notice specifying the time, date and location of the hearing to the effected property owners within 30 days of the hearing date.

(4) Where a request for variance concerns the expansion and/or redevelopment of an existing manufactured home park, the Ordinance Administrator shall send a copy of the proposed request and a notice specifying the time, date and location of the hearing to the occupants of the park within 30 days of the hearing date.



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(5) A variance shall be issued if the Board finds all of the following:

(a) Such waiver and/or modification will be in harmony with the purpose and intent of this chapter and will not be injurious to the surrounding area or to the general public;

(b) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures;

(c) The special circumstances are not the result of the action of the applicant;

(d) In granting of the waiver and/or modification, the public safety and welfare have been assured and substantial justice has been done.

(C) Appeals from the Board of Aldermen shall be filed with the Swain County Superior Court within 30 days from the date of the decision.

(Ord. passed 9-18-00)

**§ 152.45 NOTICE OF NONCOMPLIANCE.**

If the Ordinance Administrator finds that a manufactured home park is not in compliance with the terms of this chapter, the Administrator shall issue a letter to the owner/operator of the park describing the violation and listing all corrections that need to be made to bring the park into compliance. Corrections shall be made within 30 days of mailing of the letter. If the corrections have not been made within the specified time period, the Ordinance Administrator shall issue a notice of noncompliance which shall remain in effect until the park is in compliance with the terms of this chapter. A notice of noncompliance shall prevent the issuance of any permit by the town to the manufactured home park owner/operator and thus prevent the park's expansion and/or redevelopment.

(Ord. passed 9-18-00)

**§ 152.99 PENALTY.**

(A) Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with G.S. § 14-4. The maximum fine for each offense shall not exceed \$500. Each day that the violation continues shall constitute a separate offense.

(B) If the Board of Aldermen finds that any person has violated the provisions of this chapter it may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$50 per violation; act or proceed to restrain, correct or abate the violation; prevent occupancy of buildings, structures or land; or prevent any illegal act, conduct, business or use in or about the premises. Each day that the violation continues shall constitute a separate offense.  
(Ord. passed 9-18-00)



**TITLE III: ADMINISTRATION**

Chapter

- 30. MAYOR AND BOARD OF ALDERMEN**
- 31. OFFICERS AND EMPLOYEES**
- 32. DEPARTMENTS AND BOARDS**
- 33. CIVIL EMERGENCIES**
- 34. FINANCIAL ADMINISTRATION**



**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL PROVISIONS**

**Bryson City - General Provisions**

## CHAPTER 10: GENERAL PROVISIONS

### Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Rules of interpretation
- 10.07 Severability
- 10.08 Reference to other sections
- 10.09 Reference to offices
- 10.10 Errors and omissions
- 10.11 Official time
- 10.12 Reasonable time; computing time
- 10.13 Ordinances repealed
- 10.14 Ordinances unaffected
- 10.15 Effective date of ordinances
- 10.16 Repeal or modification of ordinances
- 10.17 Ordinances which amend or supplement code
- 10.18 Section histories; statutory references
  
- 10.99 General penalty

### § 10.01 TITLE OF CODE.

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

### § 10.02 INTERPRETATION.

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



**§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

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

**§ 10.04 CAPTIONS.**

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

**§ 10.05 DEFINITIONS.**

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

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

**BOARD OF ALDERMEN.** The governing body of the Town of Bryson City, North Carolina.

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

**COUNTY.** Swain County, North Carolina.

**GOVERNOR.** The Governor of North Carolina.

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

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

**OATH.** 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**.

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

**OWNER.** Applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such property.

**PERSON.** Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PERSONAL PROPERTY.** Every species of property except real property.

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

**PROPERTY.** Includes real and personal property.

**REAL PROPERTY.** Includes lands, tenements and hereditaments.

**SHALL.** The act referred to is mandatory.

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

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

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

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

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

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

**TOWN.** The Town of Bryson City, North Carolina.

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

**YEAR.** A calendar year, unless otherwise expressed.

#### **§ 10.06 RULES OF INTERPRETATION.**

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

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

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

(C) **Gender; singular and plural; tenses.** Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

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

#### **§ 10.07 SEVERABILITY.**

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

#### **§ 10.08 REFERENCE TO OTHER SECTIONS.**

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

**§ 10.09 REFERENCE TO OFFICES.**

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

**§ 10.10 ERRORS AND OMISSIONS.**

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

**§ 10.11 OFFICIAL TIME.**

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

**§ 10.12 REASONABLE TIME; COMPUTING TIME.**

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

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

**§ 10.13 ORDINANCES REPEALED.**

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

**§ 10.14 ORDINANCES UNAFFECTED.**

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

**§ 10.15 EFFECTIVE DATE OF ORDINANCES.**

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

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

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

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

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

**§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) All ordinances passed subsequent to this code which amend, repeal or in any way affect this code may be numbered in accordance with the numbering system hereof and printed for inclusion herein. When subsequent ordinances repeal any chapter, section or subsection, or any portion thereof, such repealed portions may be excluded from this code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of the subsequent ordinances numbered or omitted are readopted as a new code by the town.

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

(C) If a new section not heretofore existing in the code is to be added, language substantially similar to the following shall be used: "The Code of Ordinances, Town of Bryson City, North Carolina, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which section shall read as follows:...." The new section shall then be set out in full as desired.

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

### § 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance and the most recent three amending ordinances, if any, are listed following the text of the code section. *Example:* (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) A statutory cite included in the history indicates that the text of the section reads substantially the same as the statute. *Example:* (G.S. § 160A-11) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

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

#### § 39.01 PUBLIC RECORDS AVAILABLE.

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

*Statutory reference:*

*For provisions concerning the inspection of public records, see G.S. §§ 139-1 et seq.*

(C) If a section of this code is derived from the previous code of ordinances of the town published in 1992 and subsequently amended, the 1992 code section number shall be indicated in the history by "(92 Code, § \_\_\_\_)."

**§ 10.99 GENERAL PENALTY.**

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

(G.S. § 14-4(a))

***Statutory reference:***

*For provisions concerning enforcement of ordinances, see G.S. § 160A-175*

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