

**TOWN OF MOUNT GILEAD,
NORTH CAROLINA**

CODE OF ORDINANCES

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

We want to express our grateful appreciation to all municipal officials and the North Carolina League 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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CODE OF ORDINANCES
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CHARTER

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THE CHARTER OF THE TOWN OF MOUNT GILEAD

ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES

§ 1.1 INCORPORATION.

The Town of Mount Gilead, North Carolina, in Montgomery County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the "Town of Mount Gilead," hereinafter at times referred to as the "Town."
(Sess. Law 2015-234, Sec. 1)

§ 1.2 POWERS.

The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Mount Gilead specifically by this Charter or upon municipal corporations by general law. The term "general law" is employed herein as defined in G.S. 160A-1.
(Sess. Law 2015-234, Sec. 1)

§ 1.3 CORPORATE LIMITS.

The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town, and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the Office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the Office of the Secretary of State, the Montgomery County Register of Deeds, and the appropriate board of elections.

(Sess. Law 2015-234, Sec. 1)

ARTICLE II. GOVERNING BODY**§ 2.1 TOWN GOVERNING BODY; COMPOSITION.**

The Board of Commissioners, hereinafter referred to as the "Board," and the Mayor shall be the governing body of the Town.

(Sess. Law 2015-234, Sec. 1)

§ 2.2 TOWN BOARD OF COMMISSIONERS; COMPOSITION; TERMS OF OFFICE.

The Board of Commissioners shall be composed of four members, to be elected by all the qualified voters of the Town, for staggered terms of four years, or until their successors are elected and qualified.

(Sess. Law 2015-234, Sec. 1)

§ 2.3 MAYOR; TERM OF OFFICE; DUTIES.

The Mayor shall be elected by all the qualified voters of the Town for a term of two years or until his or her successor is elected and qualified. The Mayor shall be the official head of the Town government, shall preside at meetings of the Board, shall have the right to vote only when there is an equal division on any question or matter before the Board, and shall exercise the powers and duties conferred by law or as directed by the Board.

(Sess. Law 2015-234, Sec. 1)

§ 2.4 MAYOR PRO TEMPORE.

The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Board.

(Sess. Law 2015-234, Sec. 1)

§ 2.5 MEETINGS.

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

(Sess. Law 2015-234, Sec. 1)

§ 2.6 QUORUM; VOTING.

Official actions of the Board and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

(Sess. Law 2015-234, Sec. 1)

§ 2.7 COMPENSATION; QUALIFICATIONS FOR OFFICE; VACANCIES.

The compensation and qualifications of the Mayor and Commissioners shall be in accordance with general law. Vacancies that occur in any elective office of the Town shall be filled by majority vote of the remaining members of the Board and shall be filled for the remainder of the unexpired term, despite the contrary provisions of G.S. 160A-63.

(Sess. Law 2015-234, Sec. 1)

ARTICLE III. ELECTIONS**§ 3.1 REGULAR MUNICIPAL ELECTIONS.**

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

(Sess. Law 2015-234, Sec. 1)

§ 3.2 ELECTION OF MAYOR.

A Mayor shall be elected in the regular municipal election in 2015 and every two years thereafter.
(Sess. Law 2015-234, Sec. 1)

§ 3.3 ELECTION OF COMMISSIONERS.

In the regular municipal election in 2015, and quadrennially thereafter, two Commissioners shall be elected for four-year terms in those positions whose terms are then expiring. In the regular municipal election in 2017, and quadrennially thereafter, two Commissioners shall be elected for four-year terms in those positions whose terms are then expiring.
(Sess. Law 2015-234, Sec. 1)

§ 3.4 SPECIAL ELECTIONS AND REFERENDA.

Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly. Recall elections may be held as provided in Article IV of this Charter.
(Sess. Law 2015-234, Sec. 1)

ARTICLE IV. RECALL OF ELECTED OFFICIALS**§ 4.1 POWER OF RECALL.**

The qualified voters of the Town shall have the power to remove from office any member of the Town's governing body as provided herein. An officer is removed upon the filing of a sufficient recall petition and the affirmative vote of a majority of those voting on the question of removal at a recall election.
(Sess. Law 2015-234, Sec. 1)

§ 4.2 PETITION.

Voters seeking the recall of any member of the Town's governing body shall proceed by way of a recall petition addressed to the Board, identifying the official concerned, requesting his or her removal from office, and stating in general the grounds for which removal is sought. Any recall petition must be filed with the Town Clerk and must be signed by qualified voters of the Town equal in number to at least twenty-five percent (25%) of the number of qualified voters of the Town as shown by the registration records of the last preceding municipal election.
(Sess. Law 2015-234, Sec. 1)

§ 4.3 CERTIFICATION OF SUFFICIENCY.

The Town Clerk shall forward the petition to the board of elections that conducts elections for the Town. The board of elections shall verify the petition signatures. If a sufficient recall petition is submitted, the board of elections shall certify its sufficiency to the governing body.
(Sess. Law 2015-234, Sec. 1)

§ 4.4 ELECTION.

After receiving certification of a sufficient petition, the governing body shall adopt a resolution calling for a recall election to be held not less than 60 nor more than 100 days after the date of certification of the petition. The election may be held by itself or at the same time as any other general or special election within the period established in this section and shall be held as otherwise provided in G.S. 163-287. The board of elections shall conduct the recall election and the registered voters of the Town shall be eligible to vote in the recall election. The proposition submitted to the voters shall be substantially in the following form:

"FOR [] the recall of [name of officer]
AGAINST [] the recall of [name of officer]"

(Sess. Law 2015-234, Sec. 1)

§ 4.5 RESULTS.

If less than a majority of the votes cast on the question are for the officer's recall, the officer continues in office. If a majority of the votes cast on the question are for the officer's recall, the officer is removed on the date the board of elections certifies the results of the election. A vacancy created by removal of the Mayor or a member of the Board of Commissioners shall be filled in accordance with the provisions of G.S. 160A-63, provided that any officer so appointed shall fill the vacancy for the remainder of the unexpired term.
(Sess. Law 2015-234, Sec. 1)

§ 4.6 LIMITATION ON PETITIONS.

No petition to recall an officer may be filed within six months after the officer's election to the governing body nor within six months before the expiration of the officer's term. No more than one election may be held to recall an officer within a single term of office of that officer.
(Sess. Law 2015-234, Sec. 1)

ARTICLE V. ORGANIZATION AND ADMINISTRATION**§ 5.1 FORM OF GOVERNMENT.**

The Town shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.
(Sess. Law 2015-234, Sec. 1)

§ 5.2 TOWN MANAGER; APPOINTMENT; POWERS AND DUTIES.

The Board shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Board, so far as authorized by general law.
(Sess. Law 2015-234, Sec. 1)

§ 5.3 TOWN ATTORNEY.

The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct.
(Sess. Law 2015-234, Sec. 1)

§ 5.4 TOWN CLERK.

The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Town Manager may direct.
(Sess. Law 2015-234, Sec. 1)

§ 5.5 TAX COLLECTOR.

The Town shall have a Tax Collector to collect all taxes owed to the Town, perform those duties specified in G.S. 105-350, and such other duties as prescribed by law.
(Sess. Law 2015-234, Sec. 1)

§ 5.6 OTHER ADMINISTRATIVE OFFICERS AND EMPLOYEES.

The Board may authorize other positions to be filled by appointment by the Town Manager and may organize the Town government as deemed appropriate, subject to the requirements of general law.
(Sess. Law 2015-234, Sec. 1)

§ 5.7 TOWN MANAGER'S PERSONNEL AUTHORITY; ROLE OF ELECTED OFFICIALS.

As chief administrator, the Town Manager shall have the power to appoint, suspend, and remove all nonelected officers, department heads, and employees of the Town, with the exception of the Town Attorney and Clerk and any other official whose appointment or removal is specifically vested in the Board by this Charter or by general law. Neither the Mayor nor the Board of Commissioners nor any of its committees or members shall take part in the appointment or removal of nonelected officers, department heads, and employees in the administrative service of the Town, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the Town Attorney, the Mayor and the Board and its members shall deal with officers and employees in the administrative service only through the Town Manager, Acting Manager, or Interim Manager, and neither the Mayor nor the Board nor any of its members shall give orders or directions to any subordinate of the Town Manager, Acting Manager, or Interim Manager, either publicly or privately.
(Sess. Law 2015-234, Sec. 1)

ARTICLE VI. PUBLIC ENTERPRISE SERVICES**§ 6.1 COLLECTION OF DELINQUENT BILLS.**

If a fee charged by the Town for a public enterprise service remains unpaid for a period of at least 90 days, the Town may collect it in any manner by which delinquent personal or real property taxes can be collected.
(Sess. Law 2015-234, Sec. 1)

§ 6.2 LIENS.

If the delinquent fees are collected in the same manner as delinquent real property taxes, the delinquent fees are a lien on the real property owned by the person contracting with the Town for the service. If a lien is placed on real property, the lien shall be valid from the time of filing in the office of the clerk of superior court of the county in which the service was provided and shall include a statement containing the name and address of the person against whom the lien is claimed, the name of the Town, the specific service that was provided, the amount of the unpaid charge for that service, and

the date and place of furnishing that service. A lien on real property is not effective against an interest in real property conveyed after the fees become delinquent if the interest is recorded in the office of the register of deeds prior to the filing of the lien for delinquent fees. No lien under this Article shall be valid unless filed in accordance with this section after 90 days of the date of the failure to pay for the service or availability fees and within 180 days of the date of the failure to pay for the service or fees. The lien may be discharged as provided in G.S. 44-48. The Town shall adopt an appeals process providing notice and an opportunity to be heard in protest of the imposition of such liens. The county tax office, once notified of the Town's lien, shall include the lien amount on any tax bills printed subsequent to the notification. The county tax office shall add or remove liens from the tax bill at the request of the Town, such as in the case of an appeal where the Town decides to cancel the lien. (Sess. Law 2015-234, Sec. 1)

§ 6.3 REMEDIES NOT EXCLUSIVE.

The remedies authorized in this Article are not exclusive, and the Town may use any and all other collection procedures authorized by general law, including, but not limited to, the debt setoff provisions of Chapter 105A of the General Statutes. (Sess. Law 2015-234, Sec. 1)

ARTICLE VII. STREET AND SIDEWALK IMPROVEMENTS

§ 7.1 ASSESSMENTS FOR STREET IMPROVEMENTS.

In addition to any authority granted by general law, the Board may, without the necessity of a petition, order street improvements and assess fifty percent (50%) of the costs thereof against abutting property, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes.

(a) For the purposes of this Article, the term "street improvement" shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, and the construction or reconstruction of curbs, gutters, and street drainage facilities.

(b) The Board must find that the street improvement project does not exceed 1,200 linear feet.

(c) The Board must make at least one of the following findings of fact:

(1) The street or part thereof is unsafe for vehicular traffic or creates a safety or health hazard, and it is in the public interest to make such improvement;

(2) It is in the public interest to connect two streets or portions of a street already improved;

(3) It is in the public interest to widen a street or part thereof, which is already improved; provided that assessments for widening any street or portion of a street without a petition shall be limited to fifty percent (50%) of the cost of widening and otherwise improving such street in accordance with street classification and improvement standards established by the Town's thoroughfare or major street plan for the particular street or part thereof.

(Sess. Law 2015-234, Sec. 1)

§ 7.2 ASSESSMENTS FOR SIDEWALK IMPROVEMENTS.

In addition to any authority granted by general law, the Board may levy special assessments for sidewalk improvements or repairs without the necessity of a petition. Improvements or repairs may be ordered according to standards and specifications of the Town, and fifty percent (50%) of the total costs assessed against abutting property, not including the cost of improvements made at intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes.

(Sess. Law 2015-234, Sec. 1)

§ 7.3 PROCEDURE; EFFECT OF ASSESSMENT.

In ordering street or sidewalk improvements without a petition and assessing the costs thereof under authority of this Article, the Board shall comply with the procedures provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to petitions of property owners and the sufficiency thereof. The effect of the act of levying assessments under authority of this Article shall be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

(Sess. Law 2015-234, Sec. 1)

TITLE I: GENERAL PROVISIONS

Chapter

**10. GENERAL CODE CONSTRUCTION; GENERAL
PENALTY**

Mount Gilead - General Provisions

CHAPTER 10: GENERAL CODE CONSTRUCTION; GENERAL PENALTY

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- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
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- 10.07 Severability
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- 10.16 Repeal or modification of ordinances
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- 10.18 Section histories
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- 10.99 General penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the Town of Mount Gilead shall be designated as the *Code of Mount Gilead, 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. The Board of Commissioners of the Town of Mount Gilead, North Carolina.

CHARTER. The Charter of the Town of Mount Gilead, North Carolina.

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

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

COUNCIL. The Mayor and Council, or governing body, of the Town of Mount Gilead, North Carolina.

COUNTY. The County of Montgomery, North Carolina.

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

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

GOVERNOR. The Governor of North Carolina.

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

MAY. The act referred to is permissive.

MAYOR. The Mayor of the Town of Mount Gilead, North Carolina.

MONTH. A calendar month.

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

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

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

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

OWNER. Applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant, or tenant by the entirety, of the whole or a part of the property.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PERSONAL PROPERTY. Every species of property except real property.

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

PROPERTY. Includes real and personal property.

REAL PROPERTY. Includes lands, tenements, and hereditaments.

SHALL. The act referred to is mandatory.

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

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

Mount Gilead - General Provisions

STATE. The State of North Carolina.

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

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

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

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

TOWN. The Town of Mount Gilead, in the County of Montgomery, North Carolina.

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

YEAR. A calendar year, unless otherwise expressed.

ZONING ENFORCEMENT OFFICER. One designated by the Council.

Statutory reference:

Computation of time, see G.S. § 1-593

§ 10.06 RULES OF INTERPRETATION.

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

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

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

(C) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

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

§ 10.07 SEVERABILITY.

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

§ 10.08 REFERENCE TO OTHER SECTIONS.

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

§ 10.09 REFERENCE TO OFFICES.

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

§ 10.10 ERRORS AND OMISSIONS.

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

§ 10.11 OFFICIAL TIME.

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

§ 10.12 REASONABLE TIME; COMPUTING TIME.

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

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

§ 10.13 ORDINANCES REPEALED.

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

§ 10.14 ORDINANCES UNAFFECTED.

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

(B) Nothing in this code or the ordinance adopting this code shall be construed to repeal or otherwise affect the validity of any of the following:

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

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

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

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

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

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

(7) Any appropriation ordinance;

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

- (9) Any ordinance providing for local improvements and assessing taxes therefor;
- (10) Any zoning ordinance or zoning map amendment;
- (11) Any ordinance dedicating or accepting any subdivision plat;
- (12) Any ordinance describing or altering the boundaries of the town;
- (13) The administrative ordinances or resolutions of the town not in conflict or inconsistent with the provisions of this code;
- (14) Any ordinance levying or imposing taxes not included herein;
- (15) Any ordinance establishing or prescribing street grades in the town; and/or
- (16) Any personnel ordinance.

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

Statutory reference:

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

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

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

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCES.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

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

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

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

(A) All ordinances passed subsequent to this code which amend, repeal, or in any way affect this code may be numbered in accordance with the numbering system hereof and printed for inclusion herein. When subsequent ordinances repeal any chapter, section, or division, or any portion thereof, the repealed portions may be excluded from this code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence that the subsequent ordinances numbered or omitted are readopted as a new code by the town.

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

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

§ 10.18 SECTION HISTORIES.

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

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

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

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.
Statutory reference:
Inspection of public records, see G.S. §§ 132-1 et seq.

§ 10.19 DAMAGING ORDINANCES PROHIBITED.

No person shall tear or deface any of the town ordinances.
Penalty, see § 10.99

§ 10.99 GENERAL PENALTY.

(A) Unless this code of ordinances shall otherwise provide, violation of any provision hereof shall be a misdemeanor punishable upon conviction by a fine not exceeding \$500 or by imprisonment not exceeding 30 days, as provide in G.S. §§ 14-4 and 160A-175. A provision of this code may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. § 14-4.

(B) A provision of this code may provide that violation shall subject the offender to a civil penalty to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he or she has been cited for violation of the ordinance.

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

(D) A provision of this code that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the general court of justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed by civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular. In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that the building or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other actions be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt, and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the term of the order of

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abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(E) Subject to the express terms thereof, a provision of this code may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.

(F) Except as otherwise provided in this code or in any ordinance of the town, each day any violation of such code or ordinance shall constitute a separate and distinct offense.

Statutory reference:

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

TITLE III: ADMINISTRATION

Chapter

- 30. BOARD OF COMMISSIONERS**
- 31. TOWN OFFICIALS**
- 32. TOWN ORGANIZATIONS**
- 33. FINANCE**
- 34. STATE OF EMERGENCY**
- 35. POLICIES**

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CHAPTER 30: BOARD OF COMMISSIONERS

Section

General Provisions

- 30.01 Governing body
- 30.02 Mayor
- 30.03 Mayor Pro-Tempore
- 30.04 Board of Commissioners authority over employees
- 30.05 Committees
- 30.06 Compensation
- 30.07 Town office hours

Meetings

- 30.20 Regular meetings
- 30.21 Special meetings
- 30.22 Adjourned meetings
- 30.23 Order of business
- 30.24 Rules of procedure
- 30.25 Meetings open to the public

Ordinances

- 30.40 Proposed ordinance
- 30.41 Effective date
- 30.42 Official copy
- 30.43 Ordinance book
- 30.44 Ordinance adding to code
- 30.45 Unlawful changing of ordinance

GENERAL PROVISIONS**§ 30.01 GOVERNING BODY.**

(A) The governing body of the town shall consist of a Mayor and Board of four members. The governing body shall be charged with the general government and administration of the affairs of the town.

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

Cross-reference:

Powers of the Board, see Charter, §§ 2.01 through 2.12

Statutory reference:

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

§ 30.02 MAYOR.

It shall be the duty of the Mayor to:

(A) Keep himself or herself informed of the town's business;

(B) Preside over the meetings of the Board of Commissioners;

(C) Sign all contracts, ordinances, resolutions, franchises, and all other documents as authorized by the Board of Commissioners;

(D) Appoint all committees and outline their duties, under the general direction of the Board of Commissioners;

(E) Make recommendations to the Board of Commissioners concerning the affairs of the town;

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

(G) Perform other duties as authorized by the General Statutes, the town Charter, and this code.

§ 30.03 MAYOR PRO-TEMPORE.

At the organizational meeting, the Board of Commissioners shall elect from its members a Mayor Pro Tempore to serve at the pleasure of the Board of Commissioners. A Commissioner serving as Mayor Pro Tempore shall be entitled to vote on all matters and shall be considered a Commissioner for all purposes, including the determination of whether a quorum is present. During the absence of the Mayor, the Board of Commissioners may confer upon the Mayor Pro Tempore any of the powers and duties of the Mayor. If the Mayor should become physically or mentally incapable of performing the duties of his or her office, the Board of Commissioners may by unanimous vote declare that he or she is incapacitated and confer any of his or her powers and duties on the Mayor Pro Tempore. Upon the Mayor's declaration that he or she is no longer incapacitated, and with the concurrence of a majority of the Board of Commissioners, the Mayor shall resume the exercise of his or her powers and duties.

Statutory reference:

Mayor Pro Tempore; disability of Mayor, see G.S. § 160A-70

§ 30.04 BOARD OF COMMISSIONERS AUTHORITY OVER EMPLOYEES.

(A) The Board of Commissioners shall have the authority to generally organize and supervise the employees of the town, including the power to:

(1) *Prescribe rules.* Prescribe rules and regulations as it shall deem necessary or expedient for the conduct of administrative employees subject to its authority and shall have the power to revoke, suspend, or amend any rule or regulation;

(2) *Investigate.* Either by itself or any officer or person designated for the purpose by it, investigate and examine to inquire into the affairs or operation of any department, division, or employee; and shall have the power to employ consultants and professional counsel to aid in investigations, examinations, or inquiries;

(3) *Overrule officials.* Set aside any action taken by a town administrative official and may supersede him or her in the functions of his or her office;

(4) *Delegate duties.* Direct any official, department, division, or employee to perform the work for any other official, department, division, or employee;

(5) *Provide for administrative committees.* Designate committees as it shall find necessary for the proper consideration of administrative problems. The committees shall meet at the request of the Board of Commissioners and shall make recommendation on matters referred to them as they shall find necessary and in the best interests of the town; and

(6) *Summon employees.* Require any employee of the town to appear before and report to the Board of Commissioners at any meeting.

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

Statutory reference:

Authority of the Board of Commissioners to adopt personnel regulations, see G.S. § 160A-164

Authority to conduct investigations, see G.S. § 160A-80

Procedure for meetings, see G.S. § 160A-71

§ 30.05 COMMITTEES.

(A) *Committees appointed by Mayor, reports, compensation.* Committees shall, unless otherwise ordered, be appointed by the Mayor. All reports of committees shall be in writing, and committee members shall receive such compensation for extra and special service as the Board of Commissioners may designate.

(B) *Responsibilities and duties of committees.* Each committee shall be held responsible for its respective department or the special object for which it is appointed and shall make such recommendations to the Mayor and Board of Commissioners as it deems advisable.

§ 30.06 COMPENSATION.

The compensation for the Mayor and members of the Board of Commissioners shall be as provided in the annual budget ordinance and as the same may be amended from time to time.

Statutory reference:

Compensation of Mayor and Board members, see G.S. § 160A-64

§ 30.07 TOWN OFFICE HOURS.

The town office will be open from 8:00 a.m. to 5:00 p.m., Monday through Friday. The office will be closed on Saturday, Sunday, and on all holidays as determined by the Board of Commissioners.

MEETINGS

§ 30.20 REGULAR MEETINGS.

(A) The regular meetings of the Board of Commissioners shall be held at a time and place to be determined by the Board of Commissioners. Every member of the Board of Commissioners and officer shall attend all meetings of the Board of Commissioners, unless excused. A majority of the membership of the Board shall constitute a quorum and no business shall be conducted unless a quorum is present. It shall be the duty of the Town Clerk to be at all meetings and take minutes of those meetings. All members of the Board shall vote unless excused.

(B) The number required for a quorum shall not be affected by vacancies. A member who has withdrawn from a meeting shall be counted as present for purposes of determining whether or not a quorum is present.

(C) It shall be the duty of the Town Clerk to be present at all meetings of the Board of Commissioners to keep in a book provided for that purpose full and accurate minutes of all the proceedings of the Board of Commissioners. Such minutes shall be open to the inspection of the public. Upon request of any member of the Board of Commissioners, the ayes and noes upon any question shall be taken and entered in the minutes.

Statutory reference:

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

Quorum, see G.S. § 160A-74

Voting, see G.S. § 160-75

§ 30.21 SPECIAL MEETINGS.

(A) Special meetings of the Board of Commissioners may be held according to the procedures set out in the applicable General Statutes.

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

Commissioners are present and consent thereto or when those not present have signed a written waiver of notice. Only those items of business specified in the notice may be transacted at a special meeting unless all members are present or have signed a written waiver of notice.

Statutory reference:

Special meetings, see G.S. § 160A-71

§ 30.22 ADJOURNED MEETINGS.

Any meeting of the Board of Commissioners may be continued or adjourned from day to day; or from more than one day, but no adjournment shall be for longer period than until the next regular meeting thereafter.

§ 30.23 ORDER OF BUSINESS.

(A) At the appointed hour for the meeting of the Board of Commissioners, the Mayor shall take the chair and direct a call of the members by the Town Clerk, who shall note the absentees. If a quorum is not present, the Mayor shall send for the absentee and upon the appearance of a quorum shall call the meeting to order and proceed with the order of business. If a quorum fails to attend, the meeting shall stand adjourned to a time agreed on by a majority of the members present. The Mayor may, when present, substitute any member of the Board of Commissioners to perform the duties of the chair, but substitution shall not extend beyond adjournment, except by special consent of the Board of Commissioners.

(B) Unless the Board of Commissioners agrees in advance otherwise, the business of the Board shall be taken up for consideration and disposition at regular meetings in the following order:

- (1) Call to order;
- (2) Consent agenda;
- (3) Old business;
- (4) New business;
- (5) Reports;
- (6) Public forum;
- (7) Adjournment.

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

§ 30.24 RULES OF PROCEDURE.

The Town of Mount Gilead Board of Commissioners *Rules of Procedure* is hereby adopted by reference as if fully set forth herein. Copies of the *Rules of Procedure* are available in the office of the Town Manager.

§ 30.25 MEETINGS OPEN TO THE PUBLIC.

Except as provided in the state open meeting provisions, G.S. §§ 143-318.9 et seq., all meetings of the Board of Commissioners shall be open to the public.

ORDINANCES

§ 30.40 PROPOSED ORDINANCE.

Every ordinance amending or repealing any ordinance and every new ordinance shall be proposed in writing and shall be approved as to form by the Town Attorney. Ordinances shall have ordinance numbers and section captions.

§ 30.41 EFFECTIVE DATE.

All ordinances shall be effective after the ratification thereof except ordinances specifying some other effective date or ordinances required by state law to be effective only after having met specific date requirements.

§ 30.42 OFFICIAL COPY.

A true copy of an ordinance, which has been duly enacted by the Board of Commissioners, signed by the Mayor, and attested by the Town Clerk, shall be known as an official copy of any ordinance for the town.

§ 30.43 ORDINANCE BOOK.

The Town Clerk shall file a true copy of each ordinance, until it is codified in this code, in an ordinance book separate and apart from the Board of Commissioners' minute book. The ordinance book shall be appropriately indexed and maintained for public inspection in the office of the Town Clerk.

§ 30.44 ORDINANCE ADDING TO CODE.

Any ordinance which is proposed to add to the code a new chapter, subchapter, or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter, part, subchapter, or section.

§ 30.45 UNLAWFUL CHANGING OF ORDINANCE.

It shall be unlawful for members of the Board of Commissioners to annul, abridge, modify, or in any way change any ordinance of the Board of Commissioners except at a regular or special meeting of the Board of Commissioners.

CHAPTER 31: TOWN OFFICIALS

Section

General Provisions

- 31.01 Consolidation of offices
- 31.02 Employees serve at the pleasure of the Board of Commissioners
- 31.03 Interest of town officers

Officers and Duties

- 31.15 Town Manager
- 31.16 Town Attorney
- 31.17 Town Clerk
- 31.18 Tax Collector
- 31.19 Finance Officer

GENERAL PROVISIONS

§ 31.01 CONSOLIDATION OF OFFICES.

Except as otherwise provided by law, the Board of Commissioners may in its discretion consolidate any two or more offices and assign the duties of both offices to one or more persons.

§ 31.02 EMPLOYEES SERVE AT THE PLEASURE OF THE BOARD OF COMMISSIONERS.

All employees elected or appointed by the Board of Commissioners shall hold their office at the pleasure of the Board and may be removed at any time by the Board.

§ 31.03 INTEREST OF TOWN OFFICERS.

No member of the Board of Commissioners shall be pecuniarily interested, directly or indirectly, in any contract made or entered into by the Board, or in any matter where the rights or liabilities of the town are or may be involved.

OFFICERS AND DUTIES**§ 31.15 TOWN MANAGER.**

(A) There shall be established the office of Town Manager to be appointed by the Board of Commissioners and to serve at its pleasure.

(B) The Town Manager shall be the chief executive officer of the town and shall be responsible to the Board of Commissioners for administering all municipal affairs placed in his or her charge by them. In exercising this authority, the Town Manager shall have the following powers and duties.

(1) He or she shall direct and supervise the administration of all departments, offices, and agencies of the town, subject to the general direction and control of the Board of Commissioners, except as otherwise provided by law.

(2) He or she shall attend all meetings of the Board of Commissioners and recommend any measures that he or she deems expedient.

(3) He or she shall see that all laws of the state, the town Charter, and the ordinances, resolutions, and regulations of the Board of Commissioners are faithfully executed within the town.

(4) He or she shall prepare and submit the annual budget and capital program to the Board of Commissioners.

(5) He or she shall annually submit to the Board of Commissioners and make available to the public a complete report on the finances and administrative activities of the town as of the end of the fiscal year.

(6) He or she shall make any other reports that the Board of Commissioners may require concerning the operations of town departments, offices, and agencies subject to his or her direction and control.

(7) He or she shall perform any other duties that may be required or authorized by the Board of Commissioners.

Cross-reference:

Town Manager as purchasing agent, see § 33.02

Town Manager to enforce abandoned vehicle regulations, see § 90.04

Statutory reference:

Powers and duties of the Town Manager, see G.S. § 160A-148

§ 31.16 TOWN ATTORNEY.

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

(A) Prosecute or defend any and all suits, actions at law or equity to which the town may be a party, or in which it may be interested, 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 to 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 of Commissioners as to form;

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

(F) Attend meetings of the Board of Commissioners upon request; and

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

Statutory reference:

Appointment of the attorney, G.S. § 160A-173

§ 31.17 TOWN CLERK.

(A) The Town Manager, with the advice and consent of the Board of Commissioners, shall appoint a Town Clerk.

(B) It shall be the duty of the Town Clerk to:

(1) Act as secretary to the Board of Commissioners;

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- (2) Keep a true record of all the proceedings of the Board of Commissioners;
- (3) Keep the original of all ordinances in a book especially provided for that purpose;
- (4) Act as the custodian for all the books, papers, records, and journals of the town; and
- (5) Perform other duties as may be required.

Statutory reference:

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

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

§ 31.18 TAX COLLECTOR.

The Town Manager shall appoint 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) Deliver a list of all unpaid taxes with the reason therefore as ascertainable to the Board of Commissioners;
- (D) Supply the Mayor and Board of Commissioners with any information as they may require of him or her relative to the performance of his or her duties;
- (E) Make periodic reports to the Board of Commissioners listing therein all funds collected by him or her; and
- (F) Perform other duties as required by law, or as the Town Manager may direct.

Statutory reference:

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

§ 31.19 FINANCE OFFICER.

The Town Manager shall appoint a Finance Officer, whose duties shall be to:

- (A) Keep the books and accounts of the town;
- (B) Receive and disburse all monies of the town as required under state law;
- (C) Countersign and preaudit all checks, drafts, contracts, purchase orders, or other documents obligating town funds;

(D) Report to the Board of Commissioners concerning the finances of the town as it may require;

(E) Maintain all records of the bonded debt of the town and maintain sinking funds;

(F) Supervise the investment of idle funds; and

(G) Perform all other duties assigned by the General Statutes, the Charter, or the Town Manager.

Statutory reference:

Duties of the Finance Officer, see G.S. § 159-25

Fiscal control generally, see G.S. §§ 159-7 et seq.

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CHAPTER 32: TOWN ORGANIZATIONS

Section

General Provisions

- 32.01 Departments enumerated
- 32.02 Appointment and termination of members of appointed boards

Fire Department

- 32.15 Organization
- 32.16 Duties of Chief
- 32.17 Compensation
- 32.18 Authority of Department; general conduct during fires

Planning and Zoning Board

- 32.30 Planning and Zoning Board created
- 32.31 Members; appointment and removal; compensation
- 32.32 Organization; rules; meetings; records
- 32.33 Expenditures
- 32.34 Powers and duties

Police Department

- 32.45 Creation and composition
- 32.46 Duties
- 32.47 Authority to act as agents for property owners
- 32.48 Responsibility and duties of Chief
- 32.49 Hiring of officers; conditions and requirements for employment

Recreation Commission

- 32.60 Creation and composition
- 32.61 Membership; appointment and removal; compensation

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- 32.62 Expenditures
- 32.63 Powers and duties

Historic Preservation Commission

- 32.75 Members
- 32.76 Powers

Cross-reference:

Tree Board, see §§ 96.15, 96.16

GENERAL PROVISIONS**§ 32.01 DEPARTMENTS ENUMERATED.**

The administrative organization of the town shall be divided into the following departments:

- (A) Administration Department;
- (B) Public Works Department;
- (C) Police Department;
- (D) Fire Department;
- (E) Planning and Inspections Department; and
- (F) Recreation Department.

§ 32.02 APPOINTMENT AND TERMINATION OF MEMBERS OF APPOINTED BOARDS.

The members of town appointed boards shall be appointed at a regular meeting of the Board of Commissioners. Such appointment shall be terminated by resignation by letter of such member or by replacement by the Board of Commissioners upon completion of the term. Members may be terminated for missing three consecutive meetings without legitimate reason and without having notified the chairperson of the subject board. Members may also be terminated for missing four meetings within any rolling 12-month period. Upon missing said meetings, as stated above, the subject board may request the town Board of Commissioners to replace any subject member. The subject member of the subject board shall be given written notification of the subject board's request to the Board of Commissioners within ten days of the following Board of Commissioners meeting and shall be given an opportunity to

address the Board of Commissioners in his or her defense. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

FIRE DEPARTMENT

§ 32.15 ORGANIZATION.

The Fire Department shall consist of the Chief of the Fire Department and a sufficient number of firefighters (voluntary, part or full time) to maintain and operate the Department. The Board of Commissioners shall appoint the Chief and approve the appointment to the Department of all members. The Department may from time to time adopt its own rules and regulations governing the Department subject to the approval of the Board of Commissioners. However, any such rules and regulations shall include provisions for at least one training period each month and that any member who is absent from two consecutive meetings without a bona fide reason be dropped from the Department.

§ 32.16 DUTIES OF CHIEF.

(A) *General duties.* The Chief of the Fire Department shall:

- (1) Have general control of the Department, the personnel, and apparatus;
- (2) Command the Department and supervise the fire-fighting and extinguishing of all fires and shall have the authority to keep away from the vicinity of all fires, any and all idle, disorderly, or suspicious persons;
- (3) Inspect or cause to be inspected all trucks and other equipment of the Fire Department each and every week to ascertain that such equipment is being kept under proper condition. He or she shall report annually to the Board of Commissioners the condition of all equipment; and
- (4) Inspect or cause to be inspected all fire hydrants and fire alarm systems at least once every three months and shall make a report of such inspection to the Board of Commissioners.

(B) *Mutual fire aid agreements.* The Fire Chief is authorized to negotiate with other localities for mutual fire aid agreements. Any agreement shall be effective upon approval of the governing bodies of the participating governments.

(C) *Report of activities.* The Fire Chief may be required to make an annual report of the activities of the Fire Department.

(D) *Testing of hydrants.* The Fire Chief shall have the hydrants tested periodically and shall notify the proper town officials of any hydrants that are not in good working order.

§ 32.17 COMPENSATION.

The members of the Fire Department receive such compensation as the Board of Commissioners may direct.

§ 32.18 AUTHORITY OF DEPARTMENT; GENERAL CONDUCT DURING FIRES.

(A) The officer in command shall have authority to summon aid and no citizen so summoned may refuse to help in extinguishing the fire or in protecting exposed property.

(B) During the continuance of a fire, the Fire Chief, his or her assistant, or the Mayor, shall have authority to call upon any citizen to render assistance in pulling down or demolishing any building or in removing goods or furniture from a building on fire or in danger of fire, but not without the consent of the officer of the Fire Department or the Police Department who may be in charge.

(C) It shall be unlawful to congregate on the streets or alleys near a fire in a manner which would interfere with the activities of the Fire Department.

(D) In the event of an alarm of fire the apparatus of the Fire Department responding to it shall have the right-of-way in and upon all streets, lanes, alleys, and other public ways.

(E) The drivers of vehicles, upon the approach of fire apparatus shall immediately bring their vehicle to a stop on the right hand side of the street in the direction in which they are facing and shall not move their vehicle until such apparatus has passed.
Penalty, see § 10.99

PLANNING AND ZONING BOARD

§ 32.30 PLANNING AND ZONING BOARD CREATED.

A town Planning and Zoning Board is hereby created under the authority granted to the town in G.S. Chapter 160A, Article 19.

§ 32.31 MEMBERS; APPOINTMENT AND REMOVAL; COMPENSATION.

(A) The Planning and Zoning Board shall consist of seven members, five to be citizens of the town, who shall be appointed by the Board of Commissioners and two to be persons living in the one mile extra-territorial zoning limits, who shall be appointed by the Board of Commissioners and approved by the County Board of Commissioners. If the County Board of Commissioners fails to approve the appointments within 90 days of the appointments being made by the Town Board of Commissioners, then the appointments shall be considered as having been approved. Two members shall be appointed for terms of one year each; two members shall be appointed for terms of two years each; and three members shall be appointed for terms of three years each. As the terms of these seven members expire, new appointments for terms of three years shall be made. Vacancies, occurring for reasons other than expiration of terms, shall be filled as they occur by the Town Board of Commissioners for the five members living inside the town limits and by the County Board of Commissioners for the members living in the ETJ for the duration of the unexpired term. Faithful attendance of the meetings of the Planning and Zoning Board is considered a prerequisite for the maintenance of membership on the Planning and Zoning Board.

(B) Members of the Planning and Zoning Board may, after a public hearing, be removed by the Board of Commissioners for inefficiency, neglect of duty, or malfeasance in office.

(C) All members of the Planning and Zoning Board shall serve without compensation.

§ 32.32 ORGANIZATION; RULES; MEETINGS; RECORDS.

Within 30 days after appointment, the Planning and Zoning Board shall meet and elect a Chairperson and Vice-Chairperson and appoint a secretary. The term of the Chairperson and Vice-Chairperson shall be one year; the secretary shall serve until the Board appoints a successor. It shall adopt rules for transaction of business and shall keep a record of its member's attendance, and of its resolutions, discussion findings, and recommendations, which record shall be public. The Planning and Zoning Board shall have the first Monday of each month as their regular meeting date, at the Mt. Gilead Public Library unless otherwise determined by the Chairperson, and shall hold meetings as needed. The Chairperson shall have the power to call meetings of the Planning and Zoning Board as needed. Meetings shall be open to the public and are subject to the rules and regulations of the North Carolina Open Meetings Law.

§ 32.33 EXPENDITURES.

The expenditures of the Planning and Zoning Board shall be within the amounts appropriated for the purpose by the Board of Commissioners, and no indebtedness for which the town shall be liable shall be contracted or incurred by the Planning and Zoning Board unless an appropriation is made by the Board of Commissioners, for such purpose as authorized by law, and then only to the extent of such appropriation. The Planning and Zoning Board shall have the right to accept gifts and donations for the

exercise of its functions, which will be used in a manner that best serves the interests of the planning program.

§ 32.34 POWERS AND DUTIES.

(A) *Studies.* The Planning and Zoning Board shall make careful studies of present conditions and the probable future development of the town and its environs. Such studies may include but not be limited to: land-use surveys; population studies; economic base studies; school, park, and recreation studies; traffic and parking studies; and urban renewal studies.

(B) *Plans.* The Planning and Zoning Board shall formulate and maintain a comprehensive plan of the town and its environs for the purpose of achieving a coordinated, adjusted, and harmonious development of the town which would promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of its citizens; efficiency and economy in the process of development, convenience of traffic; safety from fire and other dangers; adequate light and air; healthful and convenient distribution of population; provision of adequate open space; good civic design and arrangement; wise and efficient expenditures of public funds; adequate provision for public utilities; and for other matters pertaining to the public requirements. The comprehensive plan shall consist of a number of parts which may include but not be limited to the following: a land-use plan, a major thoroughfare plan, a utilities plan, a plan for economic development, a recreation plan, a school plan, and a community facilities plan.

(C) *Cooperation with other agencies.* The Planning and Zoning Board shall cooperate with other agencies in order to promote the growth of the town in accordance with the comprehensive plan.

(D) *Subdivision regulations.* The Planning and Zoning Board shall prepare subdivision regulations governing the subdivision of land within the town and its environs to be submitted to the Board of Commissioners for its consideration and possible adoption.

(E) *Zoning ordinance.* The Planning and Zoning Board shall act in an advisory capacity to the Board of Commissioners in the enforcement of the town's zoning ordinance, making recommendations on amendments to the zoning ordinance according to the procedures established by the Board of Commissioners.

(F) *Annual report.* The Planning and Zoning Board shall, in May of each year, submit in writing to the Board of Commissioners a written report of its activities, proposed planning program for the next year, and any budget requests for the next year.

(G) *Other duties.* The Planning and Zoning Board will perform other duties as requested by the Board of Commissioners or as spelled out in the zoning ordinance.

POLICE DEPARTMENT

§ 32.45 CREATION AND COMPOSITION.

(A) The town Police Department is created subject to the terms, authority, and conditions set out in this subchapter.

(B) The Police Department of the town shall consist of a Chief of Police and officers, patrol officers, and police officers of designated grade as the Board of Commissioners deems necessary, upon the recommendation of the Town Manager.

§ 32.46 DUTIES.

(A) The Chief of Police and the members of the Police Department shall have the duty of enforcing all the ordinances of the town and the laws of this state within the town, and other duties as may be prescribed by ordinance.

(B) It shall be the duty of each member of the police force, upon information furnished him or her, or upon his or her knowledge of any violation of the ordinances of the town or of the laws of this state, to secure proper warrants for the arrest and trial of any and all offenders against any ordinances or laws.

§ 32.47 AUTHORITY TO ACT AS AGENTS FOR PROPERTY OWNERS.

The present and future members of the Police Department (including auxiliary police officers) are hereby authorized to act as agents for property owners to enforce regulations against trespassing on private property located within the corporate limits of the town, upon specific request by such property owners, in accordance with the terms of the agency agreement on file in the town office.

Statutory reference:

Municipal law enforcement in general, G.S. §§ 160A-281 et seq.

§ 32.48 RESPONSIBILITY AND DUTIES OF CHIEF.

(A) The Chief of Police, subject to the general supervision of the Town Manager, is held responsible for the discipline, good order, and proper conduct of the Police Department.

(B) The Police Chief of the town commands the force under his or her order and is responsible for its discipline and efficiency. Further, he or she shall recommend to the Town Manager the reforms and changes in the Police Department which practical experience shows should be instituted. Periodically,

the Chief may be required to make out a statement of conduct of the affairs of the Department and shall include therein any suggestions for the improvement in the service or personnel of the Department.

(C) Additional, specific functions of the Chief of Police are as follows:

(1) To issue to the force under his or her command such orders and directives as may be necessary to preserve the public peace, prevent crime, arrest offenders, and to protect public and private property and persons in the town;

(2) To enforce the laws, ordinances, police regulations, and executive orders applicable to his or her jurisdictions;

(3) To suspend from duty any members of the Department for incompetence, neglect of duty, immorality, drunkenness, drinking intoxicants while on duty, or who shall be found unfit for duty when called on emergency service, or who fail to obey lawful orders given by proper authority, and in addition for any just or reasonable cause in the judgment of the Chief and the Town Manager; and

(4) To require the proper submission and handling of the necessary and required reports.

§ 32.49 HIRING OF OFFICERS; CONDITIONS AND REQUIREMENTS FOR EMPLOYMENT.

(A) *Hiring of officers.* The Town Manager on recommendation of the Police Chief shall have the duty of hiring persons as may be necessary to man the police force of the town and to provide the town with adequate police protection together with the duty of discharging such members.

(B) *Conditions of employment.*

(1) Members of the Police Department shall be appointed by the Town Manager upon the recommendation of the Police Chief and based upon examination.

(2) An appointee shall serve a one-year probation. This period of probation may be extended for a period of six months upon the recommendation of the Chief, with the approval of the Town Manager. The appointee may be summarily dismissed any time during the probationary period by the Chief with the approval of the Town Manager.

(C) *Requirements for employment.* Every person appointed a law enforcement officer shall meet the current requirements of the North Carolina Training Program and Standards Commission in accordance with any state laws and any additional requirements of the town and the Police Department.

RECREATION COMMISSION

§ 32.60 CREATION AND COMPOSITION.

(A) The Town Recreation Commission is hereby created.

(B) This Commission shall consist of seven members, who shall be appointed in a manner to be determined by the Board of Commissioners, but that fairly represents all large recreation groups in the town.

§ 32.61 MEMBERSHIP; APPOINTMENT AND REMOVAL; COMPENSATION.

(A) *Organization.* After the full Recreation Commission is appointed, the Commission shall hold an organizational meeting. At that meeting, the Commission shall select from among its membership a Chairperson and Vice-Chairperson. The Chairperson will call all meetings of the Commission, work with town staff to set the agenda for such meetings, and shall be the Chair of all meetings. In the absence of the Chairperson, the Vice-Chairperson shall assume the duties of the Chair. The Town Manager will serve as the secretary/treasurer and shall be responsible for keeping minutes of the meetings and maintaining the funds of the Commission.

(B) *Removal of members.* Members of the Recreation Commission may, after a public hearing, be removed by the Board of Commissioners for inefficiency, neglect of duty, or malfeasance in office.

(C) *Compensation.* The members of the Recreation Commission shall serve without compensation.

§ 32.62 EXPENDITURES.

The expenditures of the Recreation Commission shall be within the amounts appropriated for the purpose by the Board of Commissioners, and no indebtedness for which the town shall be liable shall be contracted or incurred by the Recreation Commission unless an appropriation is made by the Board of Commissioners, for such purpose as authorized by law, and then only to the extent of such appropriation. The Recreation Commission shall have the right to accept gifts and donations for the exercise of its functions, which will be used in a manner that best serves the interests of the recreation program.

§ 32.63 POWERS AND DUTIES.

The Recreation Commission shall:

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- (A) Serve as the primary advisory body to the Board of Commissioners on matters involving recreation;
- (B) Advise the Board of Commissioners on what improvements need to be made to Stanback Park;
- (C) Advise the Board of Commissioners on what additional recreational facilities are needed;
- (D) Work with town staff to administer the summer park and pool programs; and
- (E) Coordinate with town staff to advise the Board of Commissioners on how to best spend recreation resources.

HISTORIC PRESERVATION COMMISSION**§ 32.75 MEMBERS.**

- (A) The Commission shall have at least three members.
- (B) The maximum term of any member of Commission shall be four years.
- (C) A majority of the Commission members shall have a demonstrated special interest, experience or education in history, architecture, archeology or related fields.
- (D) All members of the Commission shall reside in the town limits or extra territorial jurisdiction of the town.
- (E) Upon the expiration of their terms, the Board of Commissioners shall appoint replacement members. Replacement members shall be appointed for the term of the member they are replacing. Members whose terms have recently expired may be reappointed to fill another term before having to rotate off the Commission for at least a year before being reappointed. In considering the appointment of replacement members, the Board of Commissioners shall consider any recommendations made by the current membership of the Commission.
(Ord. 2006-3, passed 3-28-2006)

§ 32.76 POWERS.

The powers of the Historic Preservation Commission within the boundaries of the town limits and extraterritorial jurisdiction of the town shall be those provided for in G.S. § 160A-400.7:

(A) Undertaking inventories of properties of historical, architectural, pre-historical and/or cultural significance;

(B) Recommending to the Board of Commissioners areas to be designated by ordinance as "Historic Overlay Zoning Districts", as well as individual structures, buildings, sites, areas or objects to be designated by ordinance as "landmarks". Prior to recommending such designation to the Board of Commissioners, the Historic Preservation Commission shall notify of its intent, provide pertinent information to, and seek comment from State Historic Preservation Officer (SHPO) and the Planning Commission;

(C) Acquiring by any lawful means the fee or any lesser included interest, including options to purchase and conservation easements, to properties within established historic districts, or to any properties designated as landmarks, to hold, manage, preserve, restore, and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions, which will secure appropriate rights of public access and promote the preservation of the property;

(D) Restoring, preserving and operating historic properties;

(E) Recommending to the Board of Commissioners that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause. Prior to recommending such revocation of designation to the Board of Commissioners, the Historic Preservation Commission shall notify of its intent, provide pertinent information to, and seek comment from State Historic Preservation Officer (SHPO) and the Planning Commission;

(F) Conducting educational programs with respect to historic properties and districts within the town limits and extra territorial jurisdiction of the town;

(G) Cooperating with state, federal and local governments, in pursuance of the purpose of this subchapter.

(H) Entering, solely in performance of its official duties, and only at reasonable times, upon private lands for the examination or survey thereof. However, no member, employee, or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof;

(I) Preparing and recommending the official adoption of a preservation element or component as part of any comprehensive land use plan adopted by the Board of Commissioners. In making such recommendation, the Commission shall consult with the Planning Commission;

(J) Reviewing and acting upon, through approval or denial, applications for a certificate of appropriateness for alterations, demolitions, or new construction within any designated historic overlay zoning districts, or regarding any designated landmark within the town limits and extra territorial

jurisdiction of the town. A certificate of appropriateness issued by the Commission shall be required prior to the issuance of a building, zoning, or any other permit issued by the town or county, which may be required by the construction, alteration, moving, or demolition of any structure; and

(K) Negotiating at any time with the owner of a building, structure, site, area, or object for its acquisition, or preservation, when such action is reasonably necessary or appropriate.
(Ord. 2006-3, passed 3-28-2006)

CHAPTER 33: FINANCE

Section

- 33.01 Signatures required on checks and drafts
- 33.02 Town Manager as purchasing agent
- 33.03 Requirements for disbursement of funds
- 33.04 Procedures for disposing of personal property valued at less than \$30,000

§ 33.01 SIGNATURES REQUIRED ON CHECKS AND DRAFTS.

All checks and drafts issued by the town, regardless of amount, must be signed by the Finance Officer and countersigned by the Town Manager or Mayor.

Statutory reference:

Dual signatures on checks, G.S. § 159-25

§ 33.02 TOWN MANAGER AS PURCHASING AGENT.

The Town Manager shall serve as purchasing agent and as such shall:

(A) Make or approve all purchases of material, equipment, and supplies authorized by the Board of Commissioners;

(B) Establish sets of standards and specifications to control purchases by the town;

(C) Prepare and publish specifications and notices to bidders;

(D) Advise the Board of Commissioners as to anticipated needs for purchases and make purchases in advance of needs authorized by the Board of Commissioners;

(E) Store material, equipment, and supplies in advance of actual need;

(F) Keep records of all purchases made by him or her and of the destination or ultimate use of the material, equipment, and supplies;

(G) Cause to be kept an inventory of all municipal property in his or her custody and of all municipal property in the custody of the other officers and employees of the town; and

(H) Establish procedures and policies that ensure compliance with applicable general statutes and the Local Government Uniform Accounting System Procedures.

Cross-reference:

Town Manager; duties, see § 31.15

§ 33.03 REQUIREMENTS FOR DISBURSEMENT OF FUNDS.

(A) In accordance with the Local Government Budget and Fiscal Control Act, G.S. §§ 159-7 et. seq., 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 shall be valid unless it bears on its face the certificate of the Finance Officer as follows: "This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act";

(B) No contract, agreement, or purchase order shall be valid unless it bears the Finance Officer's certificate as follows: "This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act".

Statutory reference:

Preaudit of disbursements required, see G.S. § 159-28, as amended

§ 33.04 PROCEDURES FOR DISPOSING OF PERSONAL PROPERTY VALUED AT LESS THAN \$30,000.

(A) The Town Manager is authorized to dispose of any surplus personal property owned by the town, whenever he or she determines, in his or her discretion, that:

(1) The item or group of items has a fair market value of less than \$30,000;

(2) The property is no longer necessary for the conduct of public business; and

(3) Sound property management principles and financial considerations indicate that the interests of the town would best be served by disposing of the property.

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

(C) The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the town if greater value may be obtained in that manner, and the Town Manager is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the Town Manager may retain the property, obtain any reasonably

available salvage value, or cause it to be discarded. No surplus property may be donated to any individual or organization except by resolution of the Board of Commissioners.

(D) The Town Manager shall keep a record of all property sold under authority of this section and that record shall generally describe the property sold or exchanged, to whom it was sold or with whom exchanged, and the amount of money or other consideration received for each sale or exchange.

(E) This section was enacted pursuant to the provisions of G.S. § 160A-266(c).
(Ord. passed - -)

CHAPTER 34: STATE OF EMERGENCY

Section

- 34.01 Conditions constituting state of emergency
- 34.02 Emergency proclamations by Mayor
- 34.03 Restricted activities during state of emergency
- 34.04 Application of restrictions; exemptions
- 34.05 Violations

- 34.99 Penalty

Statutory reference

Authority of governing body or Mayor to declare a state of emergency, see G.S. § 166A-19.22

§ 34.01 CONDITIONS CONSTITUTING STATE OF EMERGENCY.

A state of emergency shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives or property.

§ 34.02 EMERGENCY PROCLAMATIONS BY MAYOR.

(A) In the event of an existing or threatened state of emergency endangering lives, safety, health, and welfare of the people within the town, or threatening damage to or destruction of property, the Mayor is authorized and empowered to issue a public proclamation declaring to all persons the existence of 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.

(B) Any proclamation may be extended, altered, or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.

(C) The Mayor shall proclaim the end of the state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the Board of Commissioners.

§ 34.03 RESTRICTED ACTIVITIES DURING STATE OF EMERGENCY.

During the existence of a proclaimed state of emergency, the Mayor may impose by proclamation any or all of the following restrictions:

(A) Prohibit or regulate the possession off one's own premises of explosives, firearms, ammunition, or dangerous weapons of any kind and prohibit the purchase, sale, transfer, or other disposition thereof;

(B) Prohibit or regulate the buying or selling of beer, wine, or intoxicating beverages of any kind, and their possession or consumption off one's own premises;

(C) Prohibit or regulate any demonstration, parade, march, vigil, or participation therein from taking place on any of the public ways or upon any public property;

(D) Prohibit or regulate the sale of gasoline, kerosene, naphtha, or any other explosive or flammable fluids or substances;

(E) Prohibit or regulate travel upon any public street, alley, or roadway or upon any other public property, except by those in search of medical assistance, food, or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof; and

(F) Prohibit or regulate the participation in or carrying on of any business activity, and prohibit or regulate the keeping open of places of business, places of entertainment, and any other places of public assembly.

Penalty, see § 34.99

§ 34.04 APPLICATION OF RESTRICTIONS; EXEMPTIONS.

The Mayor is authorized and empowered to limit by the proclamation the application of all, or any part of, the restrictions that are specifically designated or described within the corporate limits of the town and to specific hours of the day or night; and to exempt from all or any part of the restrictions law enforcement officers, firefighters, public employees, doctors, nurses, employees of hospitals and other medical facilities; on duty military personnel whether state or federal; on duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the town.

Penalty, see § 34.99

§ 34.05 VIOLATIONS.

During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this chapter.
Penalty, see § 34.99

§ 34.99 PENALTY.

Violation of any restriction imposed by proclamation shall be considered a Class III misdemeanor and is punishable by a fine not to exceed \$500 and/or not more than 30 days in jail.
(G.S. § 14-4)

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CHAPTER 35: POLICIES

Section

Utility Department Customer Service Guidelines

- 35.01 Purpose
- 35.02 Overview
- 35.03 Application
- 35.04 Customer responsibility
- 35.05 Customer's rights
- 35.06 Town responsibility
- 35.07 Town's rights
- 35.08 Establishing service

UTILITY DEPARTMENT CUSTOMER SERVICE GUIDELINES

§ 35.01 PURPOSE.

(A) The intent of this policy is to provide the customer and the employees of the town a helpful guide with uniform procedures for providing utility service. The town desires to treat its citizens in a fair and indiscriminate manner while recognizing that each customer has distinct needs and requirements.

(B) This subchapter is not meant to be all-inclusive but offers direction and guidance for the Town Manager and employees of the town.

(Ord. passed - -)

§ 35.02 OVERVIEW.

Employees of the town have been empowered and well-trained to use this policy to deliver high quality service to customers. Employees are expected to deal with each decision with empathy and understanding, listening carefully to the needs and requirements of individual customers. Ultimately, the Town Manager accepts the responsibility as the final authority on this policy.

(Ord. passed - -)

§ 35.03 APPLICATION.

(A) This policy applies to every customer or applicant for utility service. Copies of this policy are available at the town's offices and on the town website.

(B) This policy may be revised, amended, supplemented or otherwise changed from time to time by action of the Town Council. Customers are encouraged to seek answers to any questions by calling the town offices.

(C) The town is not responsible for any damage caused by turning on town utility services.

(D) These policies are part of all oral and written contracts for providing and receiving utility service from the town.

(Ord. passed - -)

§ 35.04 CUSTOMER RESPONSIBILITY.

(A) To establish credit in one of these ways:

(1) Approved credit report; and

(2) Pay a cash deposit.

(B) Allow Utility Department personnel access to property to set up and maintain service.

(C) Pay bills by the due date shown on each monthly bill.

(D) Inform the Utility Department if someone other than the account holder should be notified prior to disconnection for non-payment.

(E) Notify the Utility Department if there is someone in the household who is either chronically or seriously ill, handicapped or on a life support system. Notification shall include verification in writing from a medical doctor and be updated in January and July of each year.

(F) Notify the Utility Department of questions or complaints about service.

(G) Be aware of town-owned property at the customer's home/business and safeguard it.

(H) The town provides utility service for the sole use and convenience of the premises under contract. The customer will ensure that utility service is not given or resold to a neighbor or tenant. Violation of this policy will be cause for immediate disconnection of service.

(Ord. passed - -)

§ 35.05 CUSTOMER'S RIGHTS.

(A) The customer has a right to request, free of charge, historic billing and usage information.

(B) If a Utility Department employee cannot find any reason for usage changes, the customer may request a meter test. A fee of \$35 may be charged if the customer requests more than one test per 12-month period and if the meter is within accepted tolerances (plus or minus 2%). The customer has a right to results of the test.

(C) The customer has a right to request a review of any complaint according to the grievance procedure.

(Ord. passed - -)

§ 35.06 TOWN RESPONSIBILITY.

(A) To provide prompt, professional and courteous service.

(B) To apply the customer's deposit to their account if conditions are met.

(C) To provide and explain rate schedules, how meters are read, and other additional, reasonable information.

(D) To provide historic billing and usage information when requested by the customer.

(E) To provide usage and conservation information.

(F) To provide equal treatment to all customers.

(G) To operate the utility system in an efficient manner.

(Ord. passed - -)

§ 35.07 TOWN'S RIGHTS.

(A) To access the town's utility facilities at any time.

(B) To receive notice of changes in address, status or utility service, or problems with utility service.

(C) To receive timely payment for services delivered to a customer.

(D) To discontinue service for non-payment or a returned check.

(E) To take legal action regarding equipment tampering or financial delinquencies.
(Ord. passed - -)

§ 35.08 ESTABLISHING SERVICE.

(A) *Office and service hours.*

(1) The Utility Department is located at 110 West Allenton in the town hall. The town hall is open from 8:00 a.m. to 5:00 p.m., Monday through Friday. Routine and regular service work will be performed during these hours, Monday through Friday, except for holidays. Service work for unusual conditions may be arranged at other times upon request.

(2) On other days, payments will be received and reconnections performed 8:00 a.m. to 3:00 p.m.

(B) *Request for service.*

(1) *Original application for service.*

(a) Any customer requesting services will complete an application and agreement for services. The customer will provide:

1. Photo identification, social security number (or federal tax ID number in the case of a business account); and

2. Signature on the application.

(b) The town recognizes that an application for utility service by either a husband or wife will allow credit to be established for both the husband and wife. In all other situations, credit will be established for only the customer signing the application. In situations where utility service expenses on the same account are to be shared by two or more people (other than husband or wife), then the signatures and required application information for all persons desiring to have credit established with the town shall be included on the original application for service. A separate application will be requested if more than one connection is requested.

(2) *Account information changes.* Any changes of account information, mailing address, account name and the like should be made in writing by the account-holder to prevent mistakes.

(3) *Non-residential accounts.* Accounts established for non-residential service will require a federal tax ID number, and a signature by an officer of the corporation listed. For a non-incorporated business, the account will be listed in the name of a responsible person (owner, manager and the like). That person accepts the personal responsibility for payment of the account.

(4) *Service requests for all utilities.* Any request for utility service, or a request to add another service connection by a customer will be handled as a request for all services applicable to the location. Applications and fees are shown in the accompanying fee schedule.

(5) *Account service charge.* A customer will pay an initial account service charge to begin utility service.

(6) *Place of application.* Customers may request utility service at the town hall. The individual owner or occupant of the property must make application for utility service. Occupant will be determined to be the person named in the lease agreement, deed, deposit receipt or contract for sale.

(7) *Time of application.* The town will strive to meet customers' needs for connection of service. Normal connection will be made within 24 hours of the request.

(8) *Explanation of policies.* Customers can request a verbal explanation of the town's policies and may obtain a written copy of the guidelines as well.

(9) *Welcome packet.* The town may give each new customer brochures that includes information about the utility and conservation tips.

(Ord. passed - -)

TITLE V: PUBLIC WORKS

Chapter

50. GARBAGE AND REFUSE

51. SEWERS

52. WATER

Mount Gilead - Public Works

CHAPTER 50: GARBAGE AND REFUSE

Section

- 50.01 Definitions
- 50.02 Depositing or accumulating garbage or refuse on property prohibited
- 50.03 Burning or burying garbage or refuse
- 50.04 Container requirements
- 50.05 Pre-collection practices
- 50.06 Placement of containers on collection days
- 50.07 Interference with containers prohibited
- 50.08 Collection of yard waste
- 50.09 Removal of dead animals

§ 50.01 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, or 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 therefore.

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 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 wastewater effluents, dissolved materials in irrigation return flows, or other common water pollutants.

YARD WASTE. Tree limbs, leaves, shrubbery, weeds, plants, or grass.

§ 50.02 DEPOSITING OR ACCUMULATING GARBAGE OR REFUSE ON PROPERTY PROHIBITED.

(A) 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 unless in approved containers or as otherwise provided in this chapter. The only approved containers are the carts provided by the town's solid waste contractor or the trash cans provided by the town.

(B) 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. Penalty, see § 10.99

Cross-reference:

Littering, see § 130.02

Maintenance of public areas, see § 95.06

§ 50.03 BURNING OR BURYING GARBAGE OR REFUSE.

It shall be unlawful to burn or set fire to or bury 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 therefore has been granted by the proper town official.

Penalty, see § 10.99

Cross-reference:

Fire prevention, see Ch. 93

§ 50.04 CONTAINER REQUIREMENTS.

The occupant of every building or premises where garbage and refuse does or may accumulate is required to have a container for such garbage and refuse to be deposited in. The only approved containers are those provided by the town's solid waste contractor or for commercial and industrial buildings a private waste hauler. No other containers are acceptable.

Penalty, see § 10.99

§ 50.05 PRE-COLLECTION 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 not be placed in the container for collection until they are cold. Ashes and cinders should be placed in a plastic garbage bag before being placed in the container for collection.

Penalty, see § 10.99

§ 50.06 PLACEMENT OF CONTAINERS ON COLLECTION DAYS.

(A) Containers shall not be placed adjacent to the street or sidewalk except on the days when garbage is to be collected. A schedule of collection shall be kept on file at the Town Manager's office. When collection schedules are altered from time to time, notice of such change shall be given by publishing the new schedule in the Montgomery Herald. Garbage containers shall be removed from their positions adjacent to the street or sidewalk after the contents have been emptied on that same day.

(B) It is declared unlawful for any person, firm, or corporation operating a business in town to place garbage of any kind into the area at the rear of such business establishment, except in a suitable container provided by the town's solid waste contractor or a private holder. Such waste or garbage shall be placed therein for the purpose of being removed by the town solid waste contractor or a private hauler. Penalty, see § 10.99

§ 50.07 INTERFERENCE WITH CONTAINERS PROHIBITED.

It shall be unlawful for any person to damage, displace, or to otherwise interfere with garbage containers except the owner or at the request of the owner. Penalty, see § 10.99

§ 50.08 COLLECTION OF YARD WASTE.

The town will provide for the collection of yard waste using the following procedure. When a resident has yard waste that needs to be collected, they are to call the Town Hall to be placed on the schedule. The town's contractor will then collect the waste. All items to be collected should be placed at the curb and should be small enough that they can be easily loaded by a two-person crew in 15 minutes.

§ 50.09 REMOVAL OF DEAD ANIMALS.

Dead animals will be removed from any premises by the town upon notice to the Town Manager of such dead animal.

CHAPTER 51: SEWERS

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GENERAL PROVISIONS**§ 51.001 PURPOSE AND POLICY.**

(A) This chapter 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, including the Clean Water Act (33 U.S.C. § 1251 et seq.) and the general pretreatment regulations (40 C.F.R. Part 403).

(B) The objectives of this chapter 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;

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

(3) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;

(4) To protect both municipal personnel who may be affected by sewage, sludge and effluent in the course of their employment as well as protecting the general public;

(5) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and

(6) To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

(C) This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established.

(D) This chapter shall apply to all users of the municipal wastewater system, as authorized by G.S. §§ 160A-312 and/or 153A-275. The town shall designate an administrator of the POTW and pretreatment program hereafter referred to as the POTW Director. Except as otherwise provided, the POTW Director shall administer, implement and enforce the provisions of this chapter. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other town personnel. By discharging wastewater into the municipal wastewater system, industrial users located

outside the town limits agree to comply with the terms and conditions established in this chapter, as well as any permits, enforcement actions or orders issued hereunder.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.002 DEFINITIONS.

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

ACT or THE ACT. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

APPROVAL AUTHORITY. The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his/her designee.

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER.

(1) If the industrial user is a corporation, authorized representative shall mean:

(a) The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.

(3) If the industrial user is a federal, state or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in subsections (1) through (3) may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the town.

(5) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to POTW Director prior to or together with any reports to be signed by an authorized representative.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° C., usually expressed as a concentration (for example, mg/l).

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

BYPASS. The intentional diversion of waste streams from any portion of a user's treatment facility.

CAMPER UNIT: A tent or camping vehicle that can be temporary located on a campsite for transient dwelling purposes.

CAMPGROUND. A parcel of land used by campers for seasonal, recreational or other similar temporary living purposes, in buildings of a moveable, temporary or seasonal nature, such as cabins, tents, recreational vehicles or shelters, but not including a mobile home camp, court or park.

CAMPSITE. A plot of ground within a campground intended for the occupation of a camper unit.

CATEGORICAL STANDARDS. See **NATIONAL CATEGORICAL PRETREATMENT STANDARDS** or **PRETREATMENT STANDARD**.

DIRECTOR. 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 chapter, or his/her duly authorized representative.

ENVIRONMENTAL PROTECTION AGENCY (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 said agency.

GRAB SAMPLE. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

HOLDING TANK WASTE. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

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

INDUSTRIAL USER or **USER.** Any person which is a source of indirect discharge.

INTERFERENCE. The inhibition or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. § 6901 et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

NATIONAL CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 31.015 and are developed under the authority of Section 307(b) of the Act and 40 C.F.R. 403.5.

NEW SOURCE.

(1) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with Section 307(c), provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located;

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation

meeting the criteria of subsections (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous on-site construction program:

1. Any placement, assembly, or installation of facilities or equipment; or
2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

NONCONTACT COOLING WATER. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM or NPDES PERMIT. A permit issued pursuant to Section 402 of the Act (33 U.S.C. § 1342), or pursuant to G.S. § 143-215.1 by the state under delegation from EPA.

NON-DISCHARGE PERMIT. A disposal system permit issued by the state pursuant to G.S. § 143-215.1.

PASS THROUGH. A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or non-discharge permit, or a downstream water quality standard.

pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

POLLUTANT. Any waste as defined in G.S. § 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (such as, pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).

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POTW DIRECTOR. The Town Administrator designated with the responsibility for the pretreatment program and enforcement of this chapter.

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

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 prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

PRETREATMENT PROGRAM. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the town in compliance with 40 C.F.R. 403.8 and approved by the approval authority as authorized by G.S. § 143-215.3(a)(14) in accordance with 40 C.F.R. 403.11.

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

PRETREATMENT STANDARDS. Prohibited discharge standards, categorical standards and local limits.

PUBLICLY OWNED TREATMENT WORKS (POTW) or MUNICIPAL WASTEWATER SYSTEM. A treatment works as defined by Section 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this section, **POTW** shall also include any sewers that convey wastewaters to the POTW from persons outside the town who are, by contract or agreement with the town, or in any other way, users of the POTW of the town.

SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. **SEVERE PROPERTY DAMAGE** does not mean economic loss caused by delays in production.

SIGNIFICANT INDUSTRIAL USER. Any industrial user of the wastewater disposal system who has an average daily process wastewater flow of 25,000 gallons or more; contributes more than 5% of any design or treatment capacity (for example, allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge; is required to meet a national categorical pretreatment standard; or is found by the town, the Division of Environmental Management or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

SIGNIFICANT NONCOMPLIANCE or **REPORTABLE NONCOMPLIANCE**. A status of noncompliance defined as follows:

(1) Violations of wastewater discharge limits.

(a) *Chronic violations*. Sixty-six percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period.

(b) *Technical review criteria (TRC) violations*. Thirty-three percent or more of the measurements equal or exceed the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs:

1. For the conventional pollutants: BOD, TSS, fats, oil and grease TRC = 1.4; or
2. For all other pollutants TRC = 1.2.

(c) *Other violations*. Any other violation(s) of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass-through; or endangered the health of the sewage treatment plant personnel or the public.

(d) *Discharges*. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(2) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.

(3) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports and periodic compliance reports within 30 days from the due date.

(4) Failure to accurately report noncompliance.

(5) Any other violation or group of violations that the control authority considers to be significant.

SLUG LOAD OR DISCHARGE. Any discharge at a flow rate or concentration which has a reasonable potential to cause interference or pass-through, or in any other way violates the POTW's regulations, local limits or industrial user permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-route, episodic nature; a non-customer batch discharge; or any other discharges that could cause a violation of the prohibited discharge standards in § 31.015.

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

STORM WATER. Any flow occurring during or following any form 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.

UPSET. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An **UPSET** does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities lack of preventive maintenance, or careless or improper operation.

WASTEWATER. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

WASTEWATER PERMIT. As set forth in § 51.051.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.003 ABBREVIATIONS.

The following abbreviations when used in this chapter shall have the designated meanings:

BOD	Biochemical oxygen demand
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
G.S.	North Carolina General Statutes
gpd	Gallons per day

l	Liter
mg	Milligrams
mg/l	Milligrams per liter
NPDES	National pollution discharge elimination system
O&M	Operation and maintenance
POTW	Publicly-owned treatment works
RCRA	Resource Conservation and Recovery Act
SIC	Standard industrial classification
SWDA	Solid Waste Disposal Act
TSS	Total suspended solids
TKN	Total kjeldahl nitrogen
U.S.C	United States Code

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.004 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 POTW Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

(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 chapter, the National Pollutant Discharge Elimination System (NPDES) permit, non-discharge 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) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.005 ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE.

At least annually, the POTW Director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 211 .0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

GENERAL SEWER USE REQUIREMENTS**§ 51.015 PROHIBITED DISCHARGE STANDARDS.**

(A) *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state or local pretreatment standards or requirements.

(B) *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140° F. (60° C.) using the test methods specified in 40 C.F.R. 261.21.

(2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch in any dimension.

(3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(4) Any wastewater having a pH less than 6.0 or more than 9.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.

(5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD and the like) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.

(6) Any wastewater having a temperature greater than 150° F. (66° C.), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F. (40° C.)

(7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with § 51.023. (Note: discharge prohibitions in subsections (1) through (8) are mandatory of all SUOs).

(9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

(11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.

(12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable state or federal regulations.

(13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.

(14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l.

(15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.

(16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.

(17) Any material containing ammonia, ammonia salts or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.

(18) Any material that would be identified as hazardous waste according to 40 C.F.R. Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.

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(19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.

(20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

(21) Recognizable portions of the human or animal anatomy.

(22) Any wastes containing detergents, surface active agents or other substances which may cause excessive foaming in the municipal wastewater system.

(23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter.

(C) *Pollutant, substances, wastewater and other wastes.* Pollutants, substances, wastewater or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

(D) *Contributing to POTW.* When the POTW Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the POTW Director shall:

(1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with § 51.120; and

(2) Take appropriate actions in accordance with §§ 51.050 and 51.051 for such user to protect the POTW from interference or pass through.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.016 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 C.F.R. Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

(A) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 C.F.R. 403.6(e).

(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 C.F.R. 403.6(e).

(C) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 C.F.R. 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 C.F.R. 403.15.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.017 LOCAL LIMITS.

(A) An industrial waste survey is required prior to a user discharging wastewater containing in excess of the following average discharge limits.

BOD	250 mg/l
TSS	250 mg/l
NH ₃	25 mg/l
Arsenic	0.003 mg/l
Cadmium	0.003 mg/l
Chromium	0.05 mg/l (total chromium)
Copper	0.061 mg/l
Cyanide	0.015 mg/l
Lead	0.049 mg/l
Mercury	0.0003 mg/l
Nickel	0.021 mg/l
Silver	0.005 mg/l
Zinc	0.175 mg/l

(B) Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading are not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The POTW Director may impose mass based limits in addition to, or in place of concentration based limits.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.018 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 chapter.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.019 RIGHT OF REVISION.

The town reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in § 51.001 or the general and specific prohibitions in § 51.015, as is allowed by 40 C.F.R. 403.4.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.020 DILUTION.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the town or state.
(Ord. passed 6- -2002; Ord. passed 1-12-2010) Penalty, see § 51.999

§ 51.021 PRETREATMENT OF WASTEWATER.

(A) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this chapter and wastewater permits issued under § 51.051 and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in § 51.015 within the time limitations as specified by EPA, the state, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the town for review and shall be approved by the POTW Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(B) *Additional pretreatment measures.*

(1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial

wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(2) The POTW Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed; by the user at their expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
(Ord. passed 6--2002; Ord. passed 1-12-2010)

§ 51.022 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

(A) The POTW Director shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in § 51.002. All SIUs must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the POTW Director may develop such a plan for any user.

(B) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential, for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see §§ 51.084 and 51.085.

(C) An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by § 51.085; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training,

building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.023 HAULED WASTEWATER.

(A) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. Such waste shall not violate this subchapter or any other requirements established by the town. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.

(B) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(C) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(D) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Ord. passed 6- -2002; Ord. passed 1-12-2010) Penalty, see § 51.999

FEES

§ 51.035 PURPOSE.

It is the purpose of this chapter to provide for the recovery of costs from users of the wastewater disposal system of the town for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the POTW Director and approved by the Town Board. A copy of these charges and fees will be made available from the POTW Director.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.036 USER CHARGES.

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

(A) The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.

(B) Each user shall pay its proportionate cost based on volume of flow.

(C) The Manager of the town shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Board serving the town for adjustments in the schedule of charges and fees as necessary.

(D) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.037 SURCHARGES.

The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater:

(A) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:

(1) Metered water consumption as shown in the records of meter readings maintained by the town.

(2) If required by the town or at the individual dischargers option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the town. The metering system shall be installed and maintained at the users expense according to arrangements that may be made with the town.

(3) Where any user procures all or part of his or her water supply from sources other than the town, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by the town.

(B) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the town. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 C.F.R. Part 136.

(C) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his/her duly appointed representatives shall be binding as a basis for charges.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.038 PRETREATMENT PROGRAM ADMINISTRATION CHARGES.

The schedule of charges and fees adopted by the town may include charges and fees for:

(A) Reimbursement of costs of setting up and operating the pretreatment program;

(B) Monitoring, inspections and surveillance procedures;

(C) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;

(D) Permitting; and

(E) Other fees as the town may deem necessary to carry out the requirements of the pretreatment program.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

§ 51.050 WASTEWATER DISCHARGERS.

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the town. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. passed 6- -2002; Ord. passed 1-12-2010) Penalty, see § 51.999

§ 51.051 WASTEWATER PERMITS.

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW Director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW Director's determination. Industrial users who do not fit the

significant industrial user criteria may at the discretion of the POTW Director be required to obtain a wastewater discharge permit for non-significant industrial users.

(A) *Significant industrial user determination.* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria he or she will require that a significant industrial user permit application be filed.

(B) *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the town, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in division (A) of this section. 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) Standard industrial classification (SIC) codes for pretreatment, the industry as a whole and any processes for which categorical pretreatment standards have been promulgated;
- (3) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in §§ 51.015 through 51.023 of this chapter, any of the priority pollutants (Section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 C.F.R. Part 136, as amended and as required in §§ 51.089 and 51.090 of this chapter;
- (4) Time and duration of the indirect discharge;
- (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, floor drains, sewer connections, direction of flow 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 accidentally or intentionally 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;

(9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine months.

(b) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the POTW Director.

(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) If subject to a categorical standard, a baseline monitoring report in accordance with 40 C.F.R. 403.12(b) and 15A NCAC 2H .0908(a), as outlined in § 51.080 of this chapter; and

(14) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.

(C) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control authority and/or the town as defined in § 51.002 and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(D) *Application review and evaluation.* The POTW Director will evaluate the data furnished by the user and may require additional information.

(1) The POTW Director is authorized to accept applications for the town and shall refer all applications to the POTW staff for review and evaluation.

(2) Within 30 days of receipt, the POTW Director shall acknowledge and accept the complete application, or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(E) *Tentative determination and draft permit.*

(1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.

(2) If the staffs tentative determination in subsection (1) above is to issue the permit, the following additional determinations shall be made in writing:

(a) Proposed discharge limitations for those pollutants proposed to be limited;

(b) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

(c) A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

(3) The staff shall organize the determinations made pursuant to subsections (1) and (2) and the general permit conditions of the town into a significant industrial user permit.

(F) *Permit synopsis.* A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:

(1) A sketch and detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points; and

(2) A quantitative description of the discharge described in the application which includes at least the following:

(a) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;

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(b) The actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and

(c) The basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.

(G) *Final action on significant industrial user permit applications.*

(1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.

(2) The POTW Director is authorized to:

(a) Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this chapter and G.S. § 143-215.1;

(b) Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;

(c) Modify any permit upon not less than 60 days notice and pursuant to division (F) of this section;

(d) Revoke any permit pursuant to § 51.120;

(e) Suspend a permit pursuant to § 51.120; and

(f) Deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. § 143-215.1.

(H) *Hearings.* The local government may conduct hearings in accordance with its regular hearing procedure.

(1) *Initial adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he or she deems unacceptable, a permittee/user assessed a civil penalty under § 51.999, or one issued an administrative order under § 51.120 shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following receipt of the significant industrial user permit, civil penalty assessment or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail.

(a) *New permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(b) *Renewed permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(2) *Final appeal hearing.* Any decision of a hearing officer made as a result of an adjudicatory hearing held under subsection (1) above may be appealed, to the Council or Board serving the town upon filing a written demand within ten days of receipt of notice of the decision. Hearings held under this subsection shall be conducted in accordance with local hearing procedures. Failure to make written demand within the time specified herein shall bar further appeal. The Council or Board serving the town shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.

(3) *Official record.* When a final decision is issued under subsection (2) above, the Council or Board serving the town shall prepare an official record of the case that includes:

- (a) All notices, motions and other like pleadings;
- (b) A copy of all documentary evidence introduced;
- (c) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken; and
- (d) A copy of the final decision of the Council or Board serving the town.

(4) *Judicial review.* Any person against whom a final order or decision of the Council or Board serving the town is entered, pursuant to the hearing conducted under subsection (2) above, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of the county along with a copy to the town. Within 30 days after receipt of the copy of the petition of judicial review, the Council or Board serving the town shall transmit to the reviewing court the original or a certified copy of the official record.

(I) *Permit modification.*

(1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(a) Changes in the ownership of the discharge when no other change in the permit is indicated;

(b) A single modification of any compliance schedule not in excess of four months; and

(c) Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

(2) Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by division (B) of this section, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.

(3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. § 143-215.1(b) for modifications.

(J) *Permit conditions.*

(1) The POTW Director shall have the authority to grant a permit with such conditions attached as he or she believes necessary to achieve the purpose of this chapter and G.S. § 143-215.1. Wastewater permits shall contain, but are not limited to, the following:

(a) A statement of duration (in no case more than five years);

(b) A statement of non-transferability;

(c) Applicable effluent limits based on categorical standards or local limits or both;

(d) Applicable monitoring, sampling, reporting, notification and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;

(e) Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in § 51.002;

(f) Requirements to implement a plan or other controls for prevention of accidental discharges and/or slug loads as defined in 51.002 if determined by the POTW Director to be necessary for the user;

(g) Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in § 51.002. Also see §§ 51.084 and 51.085; and

(h) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

(2) In addition, permits may contain, but are not limited to, the following:

(a) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization;

(b) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;

(c) Requirements for the installation of pretreatment technology or construction of appropriate containment devices and the like, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system;

(e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system;

(f) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(g) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules;

(h) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation(s);

(i) Compliance schedules for meeting pretreatment standards and requirements;

(j) Requirements for submission of periodic self-monitoring or special notification reports;

(k) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in § 51.092 and affording the POTW Director, or his/her representatives, access thereto;

(l) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system;

(m) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee;

(n) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit; and

(o) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(K) *Permit duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

(L) *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(M) *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with this section a minimum of 180 days prior to the expiration of the existing permit.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

REPORTING REQUIREMENTS

§ 51.080 BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 C.F.R. 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in division (B) below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in division (B) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users described above shall submit the information set forth below.

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 C.F.R. 403.6(e).

(5) *Measurement of pollutants.*

(a) The categorical pretreatment standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 51.089.

(c) Sampling must be performed in accordance with procedures set out in § 51.090 and 40 C.F.R. 403.12(b) and (g), including 40 C.F.R. 403.12(g)(4).

(6) *Certification.* A statement, reviewed by the user's current authorized representative as defined in § 51.002 and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 51.081.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with § 51.051(C) of this chapter.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.081 COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by § 51.080(B)(7) of this chapter:

(A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required

for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(B) No increment referred to above shall exceed nine months;

(C) The user shall submit a progress report to the POTW Director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(D) In no event shall more than nine months elapse between such progress reports to the POTW Director.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.082 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD; DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in § 51.080 (B)(4) through (6) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 C.F.R. 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the users actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 51.051(C) of this chapter.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.083 PERIODIC COMPLIANCE REPORTS.

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

(A) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in §§ 51.089 and 51.090 of this chapter. All periodic compliance reports must be signed and certified in accordance with § 51.051(C) of this chapter.

(B) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in §§ 51.089 and 51.090 of this chapter, the results of this monitoring shall be included in the report.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.084 REPORTS OF CHANGED CONDITIONS.

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change. See § 51.085(D) for other reporting requirements.

(A) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 51.051 of this chapter.

(B) The POTW Director may issue a wastewater discharge permit under § 51.051 of this chapter or modify an existing wastewater discharge permit under § 51.051 of this chapter in response to changed conditions or anticipated changed conditions.

(C) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20% or greater, and the discharge of any previously unreported pollutants.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.085 REPORTS OF POTENTIAL PROBLEMS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in § 51.002, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in division (A) above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(D) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in § 51.002.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.086 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.087 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.

(A) If sampling performed by a user indicates a violation, the user must notify the POTW Director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within 30 days after becoming aware of the violation. If allowed by the POTW Director, the user is not required to resample:

- (1) If the POTW Director monitors at the user's facility at least once a month; or
- (2) If the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.

(B) If the POTW Director does not require the user to perform any self-monitoring and the POTW sampling of the user indicates a violation, the POTW Director shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one of the following occurs:

- (1) The POTW Director monitors at the user's facility at least once a month;
- (2) The POTW Director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
- (3) The POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30 day deadline of the POTW becoming aware of the violation.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.088 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

The town prohibits the discharge of any hazardous wastes without notification and approval of the POTW Director.

(A) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this division need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under § 51.084 of this chapter. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 51.080, 51.082 and 51.083 of this subchapter.

(B) Dischargers are exempt from the requirements of division (A) above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 C.F.R. 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 C.F.R. 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulation under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(D) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.089 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If

40 C.F.R. Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA. (Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.090 GRAB AND COMPOSITE SAMPLE COLLECTION.

(A) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(B) Grab samples must be used for pit cyanide, total phenols, oil and grease, sulfide, volatile organic compounds and any other pollutants as required by 40 C.F.R. 136. The POTW shall determine the number of grabs necessary to be representative of the user's discharge. See 40 C.F.R. 403.1.2(g)(5) for additional grab sample number requirements for BMR and 90 day compliance reports. Additionally, the POTW Director may allow collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 C.F.R. 136.

(C) All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the POTW Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.091 TIMING.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.092 RECORD KEEPING.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall

be automatically extended for the duration of any litigation concerning the user or the town, or where the user has been specifically notified of a longer retention period by the POTW Director.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.093 ELECTRONIC REPORTING.

The POTW Director may develop procedures for receipt of electronic reports for any reporting requirements of this chapter. Such procedures shall comply with 40 C.F.R. Part 3. These procedures shall be enforceable under §§ 51.120 through 51.122 and 51.999 of this chapter.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

COMPLIANCE MONITORING

§ 51.105 MONITORING FACILITIES.

(A) The town requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the town may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(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 requirements of the town and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the town.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.106 INSPECTION AND SAMPLING.

The town will inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the town, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The town, approval authority and EPA shall have the right to set up on the user's property such devices as

are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the POTW Director's approval authority's, or EPA's access to the user's premises shall be a violation of this chapter. Unreasonable delays may constitute denial of access. (Ord. passed 6- -2002; Ord. passed 1-12-2010) Penalty, see § 51.999

§ 51.107 SEARCH WARRANTS.

If the POTW Director, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the town designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the POTW Director, approval authority, or EPA may seek issuance of a search warrant from the court having jurisdiction within the town.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

ENFORCEMENT

§ 51.120 ADMINISTRATIVE REMEDIES.

(A) *Notification of violation.* Whenever the POTW Director finds that any industrial user has violated or is violating this chapter, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the town by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(B) *Consent orders.* The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to division (D) of this section.

(C) *Show cause hearing.*

(1) The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this chapter or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

(2) The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

(3) A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under § 51.999 nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under § 51.051(H).

(D) *Administrative orders.* When the POTW Director finds that an industrial user has violated or continues to violate this chapter, permits or orders issued hereunder, or any other pretreatment requirement the POTW Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation; and
- (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(E) *Emergency suspensions.*

(1) The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or non-discharge permit.

(2) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge

permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(F) Termination of permit or permission to discharge.

(1) The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

(a) Failure to accurately report the wastewater constituents and characteristics of his or her discharge;

(b) Failure to report significant changes in operations, or wastewater constituents and characteristics;

(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(d) Violation of conditions of the permit or permission to discharge, conditions of this chapter, or any applicable state and federal regulations.

(2) Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under of this section why the proposed action should not be taken.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.121 SPECIAL ADMINISTRATIVE REMEDIES FOR CAMPGROUNDS.

Campground sewer use creates a different situation with regard to this chapter and its enforcement. Campgrounds, because of the dense development and the temporary nature of the hookups, require a different treatment within this chapter; specifically, the likelihood of improper hookups and installations make it is vital that these users be diligent in proper connection and use of the service provided connections.

(A) When the POTW Director finds that a user or owner of an individual camp site has violated or continues to violate this chapter, permits or orders issued hereunder, or has failed to provide adequate payment to the town for sewer service, the POTW Director may issue an order to cease and desist all such violations or issue a notice of failure of payment. When, such, violations or failure of payment occur, the POTW shall direct the owners or operators of said campground to contact the owners of said

camp site in violation to correct all violations or make adequate payment to the town within seven days of the receipt of notice.

(B) If the user or owner of an individual camp site located inside the campground fails to correct all violations or make adequate payment to the town within seven days of the receipt of notice from the campground, the town shall contact the owners of said camp site in violation to correct all violations or make adequate payment to the town within seven days of the receipt of notice from the town.

(C) If the user or owner of an individual camp site located inside the campground fails to correct all violations or make adequate payment to the town within seven days of the receipt of notice from the town, the town shall have the county, as owner of the county water system contact the owners of said camp site in violation to correct all violations or make adequate payment to the town within seven days of the receipt of notice from the county. If the user or owner of the individual camp site fails to correct all violations and or adequate payment to the town within the allotted time, the town will direct the county to terminate water service to the individual camp site until such time that all violations have been corrected or adequate payment to the town is made.

(D) If the user or owner of an individual camp site located inside the campground fails to correct all violations or make adequate payment to the town within 14 days after termination of service, the town shall contact the District Attorney for the Judicial District #19B to prosecute the noncompliant user or owner of the individual camp site. The user or owner of the individual camp site shall be required to pay all legal fees charged to the town associated with the prosecution of the user or owner prior to service being restored.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.122 OTHER AVAILABLE REMEDIES.

Remedies, in addition to those previously mentioned in this chapter, are available to the POTW Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

(A) *Criminal violations.* The District Attorney for the applicable Judicial District may, at the request of the own, prosecute noncompliant users who violate the provisions of G.S. § 143-215.6B. (Note: Under state law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. § 143-215.6B(h)), and to falsify information required under G.S. Chapter 143, Article 21 (G.S. 143-215.6B(i))).

(B) *Injunctive relief.* Whenever a user is in violation of the provisions of this chapter or an order or permit issued hereunder, the POTW Director, through the Town Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(C) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this chapter or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(D) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this chapter or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the town governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.
(Ord. passed 6- -2002; Ord. passed 1-12-2010)

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

§ 51.135 UPSET.

(A) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of division (B) below are met.

(B) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the POTW Director within 24 hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five days:

(a) A description of the indirect discharge and cause of noncompliance;

(b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(c) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(C) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(D) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(E) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.136 PROHIBITED DISCHARGE STANDARDS DEFENSE.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 51.015(A) of this chapter or the specific prohibitions in § 51.015(B)(2), (3), (5) through (7) and (9) through (23) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(A) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(B) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

§ 51.137 BYPASS.

(A) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of divisions (B) and (C) of this section.

(B) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass.

A written submission shall also be provided within five days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(C) (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under division (B) of this section.

(2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in division (C)(1) of this section.

(Ord. passed 6- -2002; Ord. passed 1-12-2010)

OIL AND GREASE CONTROL

§ 51.150 SCOPE AND PURPOSE.

This subchapter is to aid in the prevention of sanitary sewer blockages and obstructions from the contributions and accumulation of fats, oils and greases into said sewer system from industrial, commercial and institutional establishments, particularly food preparation and serving facilities.

(Ord. passed 12-12-2006)

§ 51.151 DEFINITIONS.

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

COOKING ESTABLISHMENTS. Those establishments primarily engaged in activities of preparing, serving or otherwise making available for consumption foodstuffs and that use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sauteing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting or poaching. Also included are infrared heating, searing, barbecuing and any other food preparation activity that produces hot, non-drinkable food product in or on a receptacle that requires washing.

FATS, OILS AND GREASES. Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures in 40 C.F.R. 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases".

GREASE TRAP OR INTERCEPTOR. A device for separating and retaining waterborne greases and grease complexes prior to the wastewater exiting the trap and entering the sanitary sewer collection and treatment system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection and treatment system. **GREASE TRAPS AND INTERCEPTORS** are sometimes referred to herein as "grease interceptors".

MINIMUM DESIGN CAPACITY. The design features of a grease interceptor and its ability or volume required to effectively intercept and retain greases from grease-laden wastewaters discharged to the public sanitary sewer.

NON-COOKING ESTABLISHMENTS. Those establishments primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuffs preparation and serving establishments.

USER. Any person, including those located outside the jurisdictional limits of the town, who contributes, causes or permits the contribution of discharge of wastewater into the publicly owned treatment works (POTW), including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater.

(Ord. passed 12-12-2006)

§ 51.152 GREASE INTERCEPTOR MAINTENANCE, RECORD KEEPING AND GREASE REMOVAL.

(A) Grease interceptors shall be installed by users as required by the Public Works Director. Grease interceptors shall be installed at the user's expense, when such user operates a cooking establishment. Grease interceptors may also be required in non-cooking or cold dairy and frozen foodstuffs establishments and other industrial, commercial or institutional establishments when they are deemed necessary by the Public Works Director for the proper handling of liquid wastes containing grease.

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(B) No user shall allow wastewater discharge concentration from subject grease interceptor to exceed 325 milligrams per liter, as identified by EPA method 1664 or 275 milligrams per liter, as identified by EPA method 413.

(C) All grease interceptors shall be of a type, design and capacity approved by the Public Works Director or his/her designee and shall be readily and easily accessible for user cleaning and town inspection. No grease interceptor shall be less than 1,000 gallons total capacity unless otherwise approved by the Public Works Director.

(D) All grease interceptors shall be subject to review, evaluation and inspection by the Public Works Director during normal working hours. Results of inspections will be made available to facility owner, lease-holder or operator. The Public Works Director may make recommendations for correction and improvement.

(E) All such grease interceptors shall be serviced and emptied of accumulated waste content as required in order to maintain minimum design capability or effective volume of the grease interceptor.

(F) Users who are required to pass water through a grease interceptor shall:

(1) Provide a minimum hydraulic retention time of 24 minutes at actual peak flow or 12 minutes at the calculated theoretical peak flow rate as predicted by the Uniform Plumbing Code fixture criteria, between the influent and effluent baffles with 20% of the total volume of the grease interceptor being allowed for sludge to settle and accumulate, identified hereafter as "sludge pocket".

(2) Remove any accumulated grease cap and sludge pocket as required, but at intervals of not longer than 30 days at the user's expense. Grease interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags and the like, which could settle into the sludge pocket and thereby reduce the effective volume of the grease interceptor.

(3) Accept the following conditions: if any skimmed or pumped wastes or other materials removed from the grease interceptor are treated in any fashion onsite and reintroduced back into the grease interceptor as an activity of and after said onsite treatment, the user shall be responsible for the attainment of established grease numerical limit consistent with and contained in division (B) of this section on all discharges of wastewater from said grease interceptor into the town sanitary sewer collection and treatment system.

(4) Operate the grease interceptor in a manner so as to maintain said device such that attainment of the grease limit is consistently achieved. Consistent shall mean any wastewater sample taken from said grease interceptor shall be subject to terms of numerical limit attainment described in division (B) of this section. If an establishment desires to use an alternative to an out-of-building grease interceptor, because of documented space restraints, the request for an alternative location shall contain the following information:

(a) Location of town sewer main and easement in relation to available exterior space outside building; and

(b) Existing plumbing at or in a site that uses common plumbing for all services at that site.

(5) Understand and agree that the use of biological additives as a grease degradation agent is not permitted.

(6) Understand and agree that the use of automatic grease removal systems is conditionally permissible, upon prior written approval by the Public Works Director. Any establishment using this equipment shall operate the system in such a manner that attainment of the grease wastewater discharge limit outlined in division (B) of this section, as measured from the unit's outlet, is consistently achieved.

(7) Understand and agree that the Public Works Director reserves the right to make determinations of grease interceptor adequacy and need, based on review of all relevant information regarding grease interceptor performance, facility site and building plan review and to require repairs to, modifications, or replacement of such traps.

(8) Understand and agree that a minimum of once per year, the Public Works Director will conduct an inspection of the user's grease interceptor. The Public Works Director will coordinate with the user during regular monthly pumping to inspect the condition of the grease interceptor walls, bottom, top, cover, inlet and outlet pipes and baffles.

(G) The user shall maintain a written record of trap maintenance for three years. All such records will be available for inspection by the town at all times.

(H) No non-grease laden sources are allowed to be connected to sewer lines intended for grease interceptor service.

(I) Access manholes, with a minimum diameter of 24 inches, shall be provided over each chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow and infiltration. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.

(Ord. passed 12-12-2006) Penalty, see § 51.999

§ 51.153 ENFORCEMENT AND VIOLATION.

(A) All users, as provided in this subchapter, shall come into compliance with this subchapter (and also comply with the North Carolina Plumbing Code) upon the legal change of ownership, the changing of business name, or if any upgrade of the owner's sewer system is made.

(B) It shall be a violation of this subchapter for any user to allow floatable oils fats, or greases to enter the town wastewater collection or treatment system, in excess of the limits outlined in § 51.153(B),

because of grease interceptors or other grease handling facilities being inadequately serviced or maintained.

(C) Users receiving unsatisfactory evaluations during inspections may be required, at the user's expense, to sample its grease interceptor discharge and have it analyzed for oil and grease. Results of such analyses shall be reported to the Public Works Director.

(D) Users who continue to violate this subchapter may be considered for discontinuance of sewer services.

(E) Users whose operations cause or allow excessive grease to discharge or accumulate in the town wastewater collection and treatment system may be liable to the town for costs related to service calls for sewer line blockages, line cleaning, line and pump repairs and the like, including all labor, materials, and equipment. Failure to pay all service related charges may also be grounds for sewer service discontinuance.

(Ord. passed 12-12-2006)

§ 51.154 EXISTING FACILITIES.

(A) All existing cooking establishments shall have grease interceptors approved by the Public Works Director. Cooking establishments without grease interceptors will be required to install a grease interceptor before making any substantial repairs to their sewage drain line.

(B) Failure to comply will be considered a violation of this subchapter and such facilities may be subject to penalties and corrective actions. Said installations shall meet the same requirements for design as new facilities.

(C) In the event an existing cooking establishment's grease interceptor is either under-designed or substandard in accordance with this policy, the owner(s) will be notified in writing of the deficiencies and required improvements, and given a compliance deadline not to exceed six months to conform with the requirements of this subchapter.

(Ord. passed 12-12-2006) Penalty, see § 51.999

§ 51.999 PENALTY.

(A) (1) Any user who is found to have failed to comply with any provision of §§ 51.001 through 51.137, or the orders, rules, regulations and permits issued hereunder, may be fined up to \$25,000 per day per violation.

(2) Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:

(a) For any class of violation, only if a civil penalty has been imposed against the violator with in the five years preceding the violation; or

(b) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by §§ 51.001 through 51.137, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.

(B) In determining the amount of the civil penalty, the POTW Director shall consider the following:

(1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;

(2) The duration and gravity of the violation;

(3) The effect on ground or surface water quantity or quality or on air quality;

(4) The cost of rectifying the damage;

(5) The amount of money saved by noncompliance;

(6) Whether the violation was committed willfully or intentionally;

(7) The prior record of the violator in complying or failing to comply with the pretreatment program; and

(8) The costs of enforcement to the town.

(C) Appeals of civil penalties assessed shall be as provided in § 51.051(H).

(D) Any user found to be in violation of §§ 51.150 through 51.154 shall be notified in writing of any noncompliance and will be required to provide a schedule whereby corrections will be accomplished. User's known to be in violation shall be subject to fines of \$500 per day until actions are taken to prevent said violations from recurring.

(Ord. passed 6- -2002; Ord. passed 12-12-2006; Ord. passed 1-12-2010)

CHAPTER 52: WATER

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GENERAL PROVISIONS

§ 52.01 USE OF TOWN WATER.

(A) No consumer will be allowed to supply or sell water to other persons, families, or corporations, nor shall any person take or carry away water from any hydrant, watering trough, or public foundation.

(B) The fire hydrants are for the use of the Fire Department for fighting fires and public works employees in the performance of their duties, and are not to be used by any unauthorized person for any person, without permission from the Board.

Penalty, see § 10.99

§ 52.02 WATER FOR CUSTOMERS OUTSIDE OF TOWN.

Water shall not be furnished to consumers outside of the town except at such terms and conditions as may be approved in each case by the Board of Commissioners.

Penalty, see § 10.99

§ 52.03 WORK ON WATER SYSTEM.

All work on the water and sewer system and all connections or disconnections thereto shall be performed by the authorized employees of the town or their representatives or plumbers approved by the town. All work shall be performed in accordance with the Plumbing Code of the state and the town and such amendments thereto that the Board of Commissioners may from time to time adopt.

Penalty, see § 10.99

§ 52.04 TAMPERING WITH OR OBSTRUCTING WATER LINES.

(A) No person shall touch, tamper, or in any manner manipulate or turn the cut-offs on the water mains forming a part of the water system of the town, nor shall any person tamper with or harm in any manner whatsoever any water or sewer line, main, or any appurtenance thereto.

(B) No person shall throw or deposit any material or substance in any water or sewer line that will in any manner obstruct such line.

Penalty, see § 10.99

Cross-reference:

Tampering with fire hydrants, see § 93.04

CONNECTIONS**§ 52.15 CONNECTION TO WATER SYSTEM REQUIRED.**

All owners of improved property located within the corporate limits and upon or within a reasonable distance of any water line owned and operated by the town shall connect their premises with the town water system.

Penalty, see § 10.99

§ 52.16 PERMIT FOR CONNECTION REQUIRED.

(A) No person, firm, or corporation shall connect with the water system of the town until they shall have made applications for permission to so connect in writing to the Town Clerk, and this application

shall be made before any part of the drainage system of the house or other connection shall have been laid or constructed.

(B) Such application shall be accompanied with a plan or drawing showing the location of the building and the entire proposed connection from the public water line through the building to its terminus, showing the location of all the fixtures, traps, ventilating pipes, and the like, and shall state the name of the street and the name of the person, firm, or corporation.
Penalty, see § 10.99

§ 52.17 SEPARATE CONNECTIONS REQUIRED.

Each individual business or residential building or structure shall install a separate water and sewer connection.
Penalty, see § 10.99

§ 52.18 PRIVATE WELLS; CROSS-CONNECTIONS PROHIBITED.

Any person who connects his or her premises to the town water system for domestic household water service may continue the use of a private well for any purpose other than domestic, household water supply. There shall be no cross-connections of the town's water system with any private well or any other source of water supply.
Penalty, see § 10.99

RATES AND BILLING

§ 52.30 UTILITY RATES DETERMINATION; BILLS; DISCONNECTION.

(A) Water rates and water and sewer connection charges shall be determined from time to time by the Board of Commissioners and shall be kept on file in the office of the Town Clerk. It shall be unlawful for any person or persons, other than a person authorized by the town officials to cut on the town supply of water.

(B) All bills for water used during the previous billing cycle are due and payable on the fifth day of the month.

(C) The town specifically reserves, and shall exercise, the right to disconnect water service to delinquent customers, upon such terms as the Board shall direct.

(D) Payment and turn-off dates are determined by the Board and are on file in the office of the Town Clerk.

Penalty, see § 10.99

§ 52.31 RECONNECTION; FEE; REMOVAL OF METER.

(A) When the water that is being used by any person, firm, or corporation has been cutoff because of the nonpayment of the water account, such person, firm, or corporation shall pay a fee fixed by the Town Manager and kept on file in the office of the Town Clerk before such water shall be turned back on.

(B) In cases where water is turned off for nonpayment or other causes, or when, in the opinion of the Town Manager, the turning off of water at the meter is not sufficient protection against the future use of water, the Town Manager may cause the meter to be withdrawn.

(C) If a service meter is established at any lot, residence, business, and the like, and has not had utility services connected for one year or more, the owner is required to pay one third of the current tap fee as established by the Board of Commissioners in order to restore service to this meter. In the event ownership has changed at any lot, residence, business, and the like, and utility services have not been connected for one year or more, the owner is required to pay a full tap fee in order to restore service to this meter.

(Ord. passed 2-5-1996; Ord. passed 4-10-2007; Ord. passed 3-16-2009; Ord. passed 3-13-2012; Ord. passed 12-10-2013) Penalty, see § 10.99

§ 52.32 ADJUSTMENT OF BILLS FOR METER ERROR.

The Town Manager may adjust and settle inequitable and abnormal water bills due to meter error.

ADMINISTRATION AND ENFORCEMENT

§ 52.45 WATER SYSTEM UNDER CONTROL OF BOARD OF COMMISSIONERS.

The water system of the town shall be under the general control of, and the duty of prescribing and enforcing full compliance with all rules and regulations governing the water system shall be vested in, the Board of Commissioners or its authorized agent.

§ 52.46 DIRECTOR OF PUBLIC WORKS.

The Town Manager shall select some competent person to supervise under his or her general control the entire water and sewer system of the town. The Board may from time to time prescribe the duties and responsibilities of the Director of Public Works. The Director, or his or her staff, shall, at all reasonable hours, have free access to all premises for the purpose of examining hydrants, fixtures, or connections on which town water pressure is maintained.

§ 52.47 ACCESS TO PROPERTY.

The Director of Public Works or his or her staff shall at reasonable hours have free access to all premises for the purpose of examining hydrants, fixtures, or connections to the town water system.

§ 52.48 VIOLATIONS; ENFORCEMENT BY ADDITIONAL REMEDIES.

In addition to charging violators of the provisions of this chapter with a misdemeanor offense under G.S. § 14-4, this chapter may also be enforced by appropriate equitable remedies, including mandatory injunction issued by a court of competent jurisdiction, as provided in G.S. § 160A-175(d), (e).

CONTROL OF BACKFLOW AND CROSS-CONNECTIONS**§ 52.60 CROSS-CONNECTION CONTROL GENERALLY.*****(A) Introduction.***

(1) The purpose of this subchapter is to define the town as the water purveyor in the elimination of all cross-connections within its public potable water supply.

(2) This subchapter shall apply to all consumers connected to the town public potable water supply.

(3) This subchapter will comply with the Federal Safe Drinking Water Act (P.L. 93-523), the North Carolina State Administrative Code (Title 15A, Subchapter 8C), and the North Carolina State Building Code (Volume II) as they pertain to cross-connections with the public water supply.

(4) In accordance with G.S. § 160A-12, the town is authorized and empowered to adopt this subchapter.

(B) Objective. The specific objectives of this subchapter are as follows:

(1) To protect the public potable water supply of the town from the possibility of contamination or pollution by isolating within the consumer's water system such contaminants, waterborne health hazards and other significant pollutants which could backflow into the public water system.

(2) To eliminate or control existing cross-connections, actual or potential, between the consumer's potable water system(s) and non-potable water system(s), plumbing fixtures and industrial piping systems.

(3) To provide a continuing inspection program of cross-connection control which will systematically and effectively control all actual or potential cross-connections which may be installed in the future.

(C) *Designation of responsibility.*

(1) *Health agency's responsibility.*

(a) The North Carolina Department of Environment and Natural Resources (Division of Environmental Health) has the responsibility for promulgating and enforcing laws, rules, regulations, and policies applicable to all water purveyors in the state in carrying out an effective cross-connection control program.

(b) The Division of Environmental Health also has the primary responsibility of ensuring that the water purveyor operates a public potable water system free of actual or potential sanitary hazards including unprotected cross-connections. The Division of Environmental Health also has the responsibility of ensuring that the water purveyor provides an approved water supply at the service connection to the consumer's water system and, further, that the purveyor requires the installation, testing, and maintenance of an approved backflow prevention assembly on the service connection when required.

(2) *Town's responsibility.*

(a) Except as otherwise provided herein, the town is the water purveyor and is responsible for ensuring a safe water supply begins at the source and includes all of the public water distribution system, including the service connection, and ends at the point of delivery to the consumer's water systems. In addition, the town shall exercise reasonable vigilance to ensure that the consumer has taken the proper steps to protect the public potable water system. The town will determine the degree of hazard or potential hazard to the public potable water system, the degree of protection required and will ensure proper containment protection through an ongoing inspection program. The town will identify all facilities where approved backflow prevention assemblies are required to be installed.

(b) When it is determined that a backflow prevention assembly is required for the protection of the public system, the town shall require the consumer, at the consumer's expense, to install an approved backflow prevention assembly at service connection, to test immediately upon installation and thereafter at frequency as determined by the town, to properly repair and maintain

assembly or assemblies and to keep adequate records of each test and subsequent maintenance and repair, including materials and/or replacement parts.

(3) *Plumbing Inspector's responsibility.*

(a) The county plumbing inspection departments have the responsibility to not only review building plans and inspect plumbing as it is installed but they have the explicit responsibility of preventing cross-connections from being designed and built into the plumbing system within its jurisdiction. Where the review of building plans suggests or detects the potential for cross-connections being made an integral part of the plumbing system, the Plumbing Inspector has the responsibility, under the North Carolina Building Code, for requiring that such cross-connections be either eliminated or provided with backflow prevention equipment approved by the North Carolina State Building Code.

(b) The Plumbing Inspector's responsibility begins at the point of delivery downstream of the first installed backflow prevention assembly and continues throughout the entire length of the consumer's water system. The Inspector should inquire about the intended use of water at any point where it is suspected that a cross-connection might be made or where one is actually called for by the plans. When such is discovered it shall be mandatory that a suitable, approved backflow prevention assembly approved by the North Carolina Building Code, North Carolina Department of Environment and Natural Resources and the town be required by the plans and be properly installed.

(4) *Consumer responsibility.* The consumer has the primary responsibility of preventing pollutants and contaminants from entering his or her potable water system or the public potable water system. The consumer's responsibility starts at the point of delivery from the public potable water system and includes all of his or her water system. The consumer, at his/her expense, shall install, operate, test and maintain approved backflow prevention assemblies as directed by the town. The consumer shall maintain accurate records of tests and repairs made to backflow prevention assemblies and shall maintain such records for a minimum period of three years. The records shall be on forms approved by the town and shall include the list of materials or replacement parts used. Following any repair, overhaul, re-piping or relocation of an assembly, the consumer shall have it tested to ensure that it is in good operating condition and will prevent backflow. Tests, maintenance and repairs of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester.

(5) *Certified backflow prevention assembly tester responsibility.* When employed by the consumer to test, repair, overhaul or maintain backflow prevention assemblies, a certified backflow prevention assembly tester (tester) will have the following responsibilities:

(a) The tester will be responsible for making competent inspections and for repairing, or overhauling backflow prevention assemblies and making reports of such repair to the consumer and the town on forms approved by the town. The tester shall include the list of materials or replacement parts used. The tester shall be equipped with and be competent to use all the necessary tools, gauges, manometers and other equipment necessary to properly test, repair and maintain backflow prevention assemblies. It will be the tester's responsibility to ensure that original manufactured parts are used in the repair of or replacement of parts in a backflow prevention assembly. It will be the tester's further responsibility not to change the design, material or operational characteristics of an assembly during

repair or maintenance without prior approval of the town. A tester shall perform the work and be responsible for the competency and accuracy of all tests and reports. The tester shall provide a copy of all test and repair reports to the consumer and to the town within ten business days of any completed test or repair work. A tester shall maintain such records for a minimum period of three years.

(b) All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment which has been evaluated and/or approved by the town. All test equipment shall be registered with the town. All test equipment shall be checked for accuracy annually (at a minimum), calibrated, if necessary, and certified to the town as to such calibration, employing an accuracy/calibration method acceptable to the town.

(Ord. passed - -)

§ 52.61 DEFINITIONS.

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

AIR GAP. A physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An "approved air gap" shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel in no case less than one-inch (2.54 cm).

APPROVED CHECK VALVE. A check valve that is drip-tight in the normal direction of flow when the inlet pressure is at least one psi and the outlet pressure is zero. The check valve shall permit no leakage in a direction reversed to the normal flow. The closure element (such as, clapper, poppet or other design) shall be internally loaded to promote rapid and positive closure. An **APPROVED CHECK VALVE** is only one component of an approved backflow prevention assembly; such as, pressure vacuum breaker, double-check valve assembly, double-check detector assembly, reduced pressure principle assembly or reduced pressure detector assembly.

ATMOSPHERIC TYPE VACUUM BREAKER (NON-PRESSURE TYPE VACUUM BREAKER). A device containing a float-check, a check seat and an air inlet port. The flow of water into the body causes the float to close the air inlet port. When the flow of water stops the float falls and forms a check valve against back-siphonage and at the same time opens the air inlet port to allow air to enter and satisfy the vacuum. A shutoff valve immediately upstream may be an integral part of the device. An atmospheric vacuum breaker is designed to protect against a non-health hazard (isolation protection only) under a back-siphonage condition only.

AUXILIARY WATER SUPPLY. Any water supply on or available to the premises other than the purveyor's approved public water supply will be considered as an auxiliary water supply. These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

BACKFLOW. The undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of the potable supply of water from any source or sources. See also **BACKPRESSURE** and **BACKSIPHONAGE**.

BACKFLOW PREVENTION ASSEMBLY - TYPE. An assembly used to prevent backflow into a consumer or public potable water system. The type of assembly used should be based on the degree of hazard either existing or potential (as defined herein). The types are:

- (1) Double-check valve assembly (DCVA);
- (2) Double-check detector assembly (fire system) (DCDA);
- (3) Pressure vacuum breaker (PVB);
- (4) Reduced pressure principle assembly (RP); and
- (5) Reduced pressure principle-detector assembly (fire system) (RPDA).

BACKPRESSURE. Any elevation of pressure in the downstream piping system (by pump, elevation of piping, or steam and/or air pressure) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow.

BACKSIPHONAGE. A form of backflow due to a reduction in system pressure which causes a sub atmospheric pressure to exist at a site in the water system.

CERTIFIED BACKFLOW PREVENTION ASSEMBLY TESTER. A person who has proven their competency to the satisfaction of the town. Each person who is certified to make competent tests, or to repair, overhaul and make reports on backflow prevention assemblies shall be knowledgeable of applicable laws, rules and regulations, shall be a licensed plumber or have at least two years experience under and be employed by a state licensed plumber or plumbing contractor, or have equivalent qualifications acceptable to the town, and must hold a certificate of completion from an approved training program in the testing and repair of backflow prevention assemblies.

CONSUMER. Any person, firm or corporation using or receiving water from the town.

CONSUMER'S POTABLE WATER SYSTEM. That portion of the privately-owned potable water system lying between the point of delivery and point of use and/or isolation protection. This system will include all pipes, conduits, tanks, receptacles, fixtures, equipment and appurtenances used to produce, convey, store or use potable water.

CONSUMER'S WATER SYSTEM. Any water system commencing at the point of delivery and continuing throughout the consumer's plumbing system located on the consumer's premises, whether supplied by public potable water or an auxiliary water supply. The systems may be either a potable water system or an industrial piping system.

CONTAINMENT. Preventing the impairment of the public potable water supply by installing an approved backflow prevention assembly at the service connection.

CONTAMINATION. An impairment of the quality of the water which creates a potential or actual hazard to the public health through the introduction of hazardous or toxic substances or waterborne health hazards in the form of physical or chemical contaminants or biological organisms and pathogens.

CROSS-CONNECTION. Any unprotected actual or potential connection or structural arrangement between a public or a consumer's water system and any other source or system through which it is possible to introduce any contamination or pollution, other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which or because of which backflow can or may occur are considered to be cross-connections.

DEGREE OF HAZARD. Derived from the evaluation of conditions within a system which can be classified as either a pollutional (nonhealth) or a contaminations (health) hazard.

DOUBLE-CHECK-DETECTOR ASSEMBLY. A specially designed assembly composed of a line-size approved double-check valve assembly with a specific bypass water meter and a meter-sized approved double-check valve assembly. The meter shall register (in U.S. gallons) accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall only be used to protect against a non-health hazard (such as, pollutant). Device must be approved by Foundation for Cross-connection Control and Hydraulic Research.

DOUBLE-CHECK VALVE ASSEMBLY. An assembly composed of two independently acting, approved check valves, including tightly closing shut-off valves attached at each end of the assembly and fitted with properly located test cocks. This assembly shall only be used to protect against a non-health hazard (such as, pollutant). Device must be approved by Foundation for Cross-Connection Control and Hydraulic Research.

HEALTH AGENCY. The North Carolina Department of Environment and Natural Resources.

HEALTH HAZARD. An actual or potential threat of contamination of a physical, chemical, biological, pathogenic or toxic nature to the public or consumer's potable water system to such a degree or intensity that there would be a danger to health. Examples of waterborne health hazards include but are not limited to:

- (1) Physical - radioisotopes/radionuclides;
- (2) Chemical - lead, mercury and other heavy metals, organic compounds, other toxins and hazardous substances; and
- (3) Biological - microorganisms and pathogens like Cryptosporidium, typhoid, cholera and E. Coli.

INDUSTRIAL FLUIDS. Any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration such as would constitute a health, or non-health hazard if introduced into a public or consumer potable water system. Such fluids may include, but are not limited to: process waters, chemicals in fluid form, acids and alkalis, oils, gases and the like.

INDUSTRIAL PIPING SYSTEM. A system used by the consumer for transmission, conveyance or storage of any fluid, solid or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment and appurtenances used to produce, convey or store substances which are or may be polluted or contaminated.

ISOLATION. The act of confining a localized hazard within a consumer's water system by installing approved backflow prevention assemblies. Disclaimer: the town may make recommendations, upon facility inspection, as to the usage's of isolation devices/assemblies, but does not assume or have responsibility whatsoever for such installations.

NON-HEALTH HAZARD. An actual or potential threat to the quality of the public or the consumer's potable water system. A non-health hazard is one that, if introduced into the public water supply system could be a nuisance to water customers but would not adversely affect human health.

POINT OF DELIVERY. Generally be at the back side of the meter, adjacent to the public street where the town water distribution mains are located. The consumer shall be responsible for all water piping and control devices located on the consumer's side of the point of delivery.

POLLUTION. An impairment of the quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such waters for domestic use.

POLLUTIONAL HAZARD. An actual or potential threat to the quality or the potability of the public or the consumer's potable water system but which would not constitute a health or a system hazard, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances

POTABLE WATER. Water from any source which has been approved for human consumption by the North Carolina Department of Environment and Natural Resources (NCDENR).

PRESSURE TYPE VACUUM BREAKER. An assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with properly located test cocks and tightly closing shutoff valves attached at each end of the assembly. This assembly is designed to protect against a health hazard (such as, contaminant) under a back-siphonage condition only.

PUBLIC POTABLE WATER SYSTEM. Any publicly- or privately-owned water system operated as a public utility, under a current NCDENR permit, to supply water for public consumption or use. This system will include all sources, facilities and appurtenances between the source and the point of delivery

such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, equipment and appurtenances used to produce, convey, treat or store potable water for public consumption or use.

REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTION ASSEMBLY.

(1) An assembly containing within its structure a minimum of two independently acting, approved check valves, together with a hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and at the same time below the first check valve. The first check valve reduces the supply pressure to a predetermined amount so that during normal flow and at cessation of normal flow, the pressure between the checks shall be less than the supply pressure. In case of leakage of either check valve, the pressure differential relief valve, by discharge to atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure.

(2) The unit shall include tightly closing shutoff valves located at each end of the assembly and each assembly shall be fitted with properly located test cocks. The assembly is designed to protect against a health hazard (such as, contaminant). Device must be approved by Foundation for Cross-Connection Control and Hydraulic Research.

REDUCED PRESSURE PRINCIPLE-DETECTOR ASSEMBLY. A specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a specific bypass water meter and a meter-sized approved reduced pressure principle backflow prevention assembly. The meter shall register (in U.S. gallons) accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall be used to protect against health hazard (such as, contaminant). Device must be approved by Foundation for Cross-Connection Control and Hydraulic Research.

SERVICE CONNECTIONS. The terminal end of a service connection from the public potable water system, such as, where the town loses jurisdiction and control over the water at its point of delivery to the consumer's water system.

UNAPPROVED WATER SUPPLY. A water supply which has not been approved for human consumption by the NCDENR.

USED WATER. Any water supplied by a water purveyor from a public water system to a consumer's water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.

WATER PURVEYOR. The consumer or operator of a public potable water system providing an approved water supply to the public.

(Ord. passed - -)

§ 52.162 RIGHT OF ENTRY.

(A) Upon presentation of proper credentials and identification, authorized representatives from the town system shall have the right to enter any building, structure, or premises during normal business hours, or at any time during the event of an emergency to perform any duty imposed by this subchapter. Those duties may include sampling and testing of water, or inspections and observations of all piping systems connected to the public water supply. Where a consumer has security measures in force which would require proper identification and clearance before entry into their premises, the consumer shall make necessary arrangements with the security guards so that upon presentation of suitable identification, the town personnel will be permitted to enter without delay for the purpose of performing their specific responsibilities. Refusal to allow entry for these purposes may result in discontinuance of water service.

(B) On request, the consumer shall furnish to the town any pertinent information regarding the water supply system on such property where cross-connections and backflow are deemed possible.
(Ord. passed - -)

§ 52.63 ELIMINATION OF CROSS-CONNECTIONS: DEGREE OF HAZARD.

(A) When cross-connections are found to exist, the owner, his or her agent, occupant, or tenant will be notified in writing to disconnect the same within the time limit established by the town. The degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the public water supply system. If, in the judgment of the town, an imminent health hazard exists water service to the building or premises where a cross-connection exists may be terminated unless an air gap is immediately provided, or the cross-connection is immediately eliminated. The maximum time limits are as follows:

(1) Cross-connections with private wells or other auxiliary water supplies require immediate disconnection;

(2) All facilities which pose a potential health hazard to the potable water system must have a reduced pressure principle backflow prevention assembly within 60 days of notification by the town; and

(3) All industrial and commercial facilities not identified as a "health hazard" shall be considered non-health hazard facilities. All non-health hazard facilities must install a double-check valve assembly within 90 days of notification by the town.

(B) Water mains served by the town but not maintained by the town shall be considered cross-connections, with degree of hazard to be determined by the town. Degree of protection shall be based upon the degrees of hazard, as determined by the town.

(C) In the event that the town personnel do not have sufficient access to every portion of a private water system (such as, classified research and development facilities; federal government property) to allow a complete evaluation of the degree of hazard associated with such private water systems, an

approved reduced pressure principle backflow prevention assembly shall be required as a minimum of protection.

(D) No person shall fill special use tanks or tankers containing pesticides, fertilizers, other toxic chemicals or their residues from the public water system except at a town-approved location equipped with an air gap or an approved reduced pressure principle backflow prevention assembly properly installed on the public water supply.

(Ord. passed - -) Penalty, see § 51.999

§ 52.64 INSTALLATION OF ASSEMBLIES.

(A) All backflow prevention assemblies shall be installed in accordance with the specifications furnished by town and/or in the latest edition of the North Carolina Building Code, whichever is most restrictive.

(B) All new construction plans and specifications, when required by the North Carolina Building Code and the North Carolina Division of Environment Health, shall be made available to the town for review and approval and to determine the degree of hazard.

(C) Ownership, testing and maintenance of the assembly shall be the responsibility of the consumer.

(D) All double-check valve assemblies must be installed in drainable pits wherever below ground installation is necessary, in accordance with detailed specifications provided by the town. Double-check valve assemblies may be installed in a vertical position with prior approval from the town, provided the flow of water is in an upward direction.

(E) Reduced pressure principle backflow prevention assemblies must be installed in a horizontal position and in a location in which no portion of the assembly can become submerged in any substance under any circumstance. Pit and/or below grade installations are prohibited.

(F) The installation of any backflow prevention assembly which is not approved by the town must be replaced by one which is approved by the town.

(G) The consumer is responsible to make sure a backflow prevention assembly is working properly upon installation and is required to furnish the following information to the town within 15 days after a reduced pressure principle backflow preventer (RP), double-check valve assembly (DCVA), pressure vacuum breaker (PVB), double-check-detector assembly (DCDA), or reduced pressure principle detector assembly (RPDA) is installed:

- (1) Service address where assembly is located;
- (2) Owner (and address, if different from service address);
- (3) Description of assembly's location;

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- (4) Date of installation;
- (5) Installer (include name, plumbing company represented, plumber's license number);
- (6) Type of assembly and size of assembly;
- (7) Manufacturer, model number, serial number; and
- (8) Test results/report.

(H) When it is not possible to interrupt water service, provisions shall be made for a "parallel installation" of backflow prevention assemblies. The town will not accept an unprotected bypass around a backflow preventer.

(I) Upon notification by town, the consumer shall install the appropriate containment assembly not to exceed the following time frame:

- (1) Health hazard, 60 days; and
- (2) Non-health hazard, 90 days.

(J) Following installation, all RP, DCVA, PVB, DCDA and RPDA are required to be tested by a certified backflow prevention assembly tester within ten days.
(Ord. passed - -)

§ 52.65 TESTING AND REPAIR OF ASSEMBLIES.

(A) Testing of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester approved by the town. Such tests are to be conducted upon installation and annually thereafter or at a frequency established by the town. A record of all testing and repairs is to be retained by the consumer. Copies of the records must be provided to the town within ten business days after the completion of any testing and/or repair work.

(B) Any time that repairs to backflow prevention assemblies are deemed necessary, whether through annual or required testing, or routine inspection by the consumer or by the town, these repairs must be completed within a specified time in accordance with the degree of hazard. In no case shall this time period exceed:

- (1) Health hazard facilities, seven days; and
- (2) Non-health hazard facilities, 21 days.

(C) All backflow prevention assemblies with test cocks are required to be tested annually or at a frequency established by the town.

(D) All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment which has been evaluated and/or approved by the town. All test equipment shall be registered with the town and shall be checked for accuracy annually (at a minimum), calibrated if necessary, and certified to the town as to such accuracy/calibration, employing a calibration method acceptable to the town (see § 52.60(C)(5)).

(E) It shall be unlawful for any consumer or certified backflow prevention assembly tester to submit any record to the town which is false or incomplete in any material respect. It shall be unlawful for any consumer or certified tester to fail to submit to the town any record which is required by this subchapter. Such violations may result in any of the enforcement actions outlined in § 52.69.
(Ord. passed - -) Penalty, see § 52.999

§ 52.66 FACILITIES REQUIRING PROTECTION.

(A) Approved backflow prevention assemblies shall be installed on the service line to any facility that the town has identified as having a potential for backflow.

(B) The following types of facilities or services have been identified by the town as having a potential for backflow of non-potable water into the public water supply system. Therefore, an approved backflow prevention assembly may be required on all such services according to the degree of hazard present. Other types of facilities or services not listed below may also be required to install approved backflow prevention assemblies if determined necessary by the town. As a minimum requirement, all commercial services will be required to install a double-check valve assembly, unless otherwise listed below.

Abbreviations:	
DCVA	Double-check valve assembly
RP	Reduced pressure principle assembly
DCDA	Double-check detector assembly
RPDA	Reduced pressure detector assembly
AG	Air gap
PVB	Pressure vacuum breaker
Automotive services stations, dealerships and the like	
No health hazard	DCVA
Health hazard	RP
Auxiliary water systems	
Approved public/private water supply	DCVA
Unapproved public/private water supply	AG
Used water and industrial fluids	RP

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Bakeries	
No health hazard	DCVA
Health hazard	RP
Beauty shops/barber shops	
No health hazard	DCVA
Health hazard	RP
Beverage bottling plants	RP
Breweries	RP
Buildings - hotels, apartment houses, public and private buildings, or other structures having unprotected cross-connections	
(Under five stories) no health hazard	DCVA
(Under five stories) health hazard	RP
(Over five stories) all	RP
Canneries, packing houses, and rendering plants	RP
Commercial carwash facilities	RP
Commercial greenhouses	RP
Commercial sales establishments (department stores, malls and the like)	
No health hazard	DCVA
Health hazard	RP
Concrete/asphalt plants	RP
Dairies and cold storage plants	RP
Dye works	RP
Film laboratories	RP
Fire systems 3/4"(inch) to 2"(inch)	
No health hazard	DCDA
Health hazard: (booster pumps, foam, antifreeze solution and the like)	RP

Fire Systems 2-1/2"(inch) to 10" (inch) (or larger)	
No health hazard	DCDA
Health hazard: (booster pumps, foam, antifreeze solution and the like)	RPDA
Fire trucks	RP
Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes, medical clinics and veterinary hospitals	RP
Laundries	
No health hazard	DCVA
Health hazard: (such as, dry cleaners)	RP
Lawn irrigation systems (split taps)	
No health hazard	DCVA
Health hazard: (booster pumps, chemical systems)	RP
Metal manufacturing, cleaning, processing and fabricating plants	RP
Mobile home parks	
No health hazard	DCVA
Health hazard	RP
Oil and gas production, storage or transmission properties	RP
Pest control (exterminating and fumigating)	RP
Power plants	RP
Restaurants	
No health hazard	DCVA
Health hazard	RP
Restricted, classified or other closed facilities	RP
Sand and gravel plants	RP
Schools and colleges	RP
Sewage and storm drain facilities	RP

Swimming pools	RP
Waterfront facilities and industries	RP
All assemblies and installations shall be subject to inspection and approval by the town	

(Ord. passed - -)

§ 52.67 CONNECTIONS WITH UNAPPROVED SOURCES OF SUPPLY.

(A) No person shall connect or cause to be connected any supply of water not approved by the NCDENR to the water system supplied by the town. Any connections allowed by the town must be in conformance with the backflow prevention requirements of this subchapter.

(B) In the event of contamination or pollution of a public or consumer potable water system, the consumer shall notify the town immediately in order that appropriate measures may be taken to overcome and eliminate the contamination or pollution.

(Ord. passed - -) Penalty, see § 52.99

§ 52.68 FIRE PROTECTION SYSTEMS.

(A) All connections for fire protection systems connected with the public water system two inches and smaller shall be protected with an approved double-check valve assembly as a minimum requirement. All fire systems using toxic additives or booster pumps shall be protected by an approved reduced pressure principle detector assembly at the main service connection.

(B) All connections for fire protection systems connected with the public water system greater than two inches shall be protected with an approved double-check detector assembly as a minimum requirement. All fire protection systems using toxic or hazardous additives or booster pumps shall be protected by an approved reduced pressure principle detector assembly at the main service connection.

(C) All existing backflow prevention assemblies two and one-half inches and larger installed on fire protection systems that were initially approved by the town shall be allowed to remain on the premises, as long as they are being properly maintained, tested and repaired as required by this subchapter. However, if the existing assembly must be replaced (once it can no longer be repaired), or in the event of proven water theft through an un-metered source, the consumer shall be required to install an approved double-check detector assembly or reduced pressure principle detector assembly as required by this provision.

(Ord. passed - -)

§ 52.69 ENFORCEMENT.

(A) The consumer or person in charge of any installation found not to be in compliance with the provisions of this subchapter shall be notified in writing with regard to the corrective action(s) to be taken.

(B) Such notice must explain the violation and give the time period within which the violation must be corrected. The time period set to correct a violation shall not exceed 30 days after receiving notice unless otherwise specified by § 52.63. If the violation has been determined by the town to be an imminent hazard, the consumer shall be required to correct the violation immediately.

(C) Enforcement of this program shall be administered by the Director of Public Works or his/her authorized representative.
(Ord. passed - -)

WATER QUALITY PROTECTION**§ 52.80 DEFINITIONS.**

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

AIR-GAP SEPARATION. An unobstructed vertical distance through the atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. An approved air-gap vertical separation shall be at least double the diameter of the supply pipe. In no case shall the air-gap be less than one inch.

APPROVED. Certified in writing by the operator in responsible charge (ORC) as an acceptable device or methodology for the purpose of backflow prevention.

AUXILIARY INTAKE. Any piping connection or other device whereby water may be secured from a source other than public water supply.

BACKFLOW. Any flow of water into the public water supply from any other source due to a cross-connection, auxiliary intake, interconnection, backpressure, backsiphonage, any combination thereof or other cause.

BACKPRESSURE. Any pressure on any source of water other than the public water supply that may be greater than the pressure on the public water supply and may result in a backflow.

BACKFLOW PREVENTION DEVICE. An approved effective device method used to prevent backflow from occurring in the potable water supply. The type of device required shall be based on degree of hazard, existing or potential.

BACK-SIPHONAGE. Any circumstance in which the pressure on the public water supply may be reduced to the point that the elevation and atmospheric pressure on a source of water other than the public water supply may result in a pressure to be greater than the pressure on the public water supply and may result in a back flow.

CERTIFIED TESTER. A person who has proven his or her competency to test, repair, overhaul and make reports on backflow prevention devices as evidenced by certification of successful completion of a training program approved by the operator in responsible charge (ORC).

CONFINEMENT DEVICE. A backflow prevention device, as approved and required, installed within a private plumbing or distribution system to isolate a localized hazard from the remainder of said system.

CONSUMER. Any person, firm or corporation responsible for any property at which water from the town public water supply is received. In the absence of other parties or the failure of other parties to accept the responsibilities herein set forth, the owner of record shall be ultimately responsible. A backflow prevention device as approved installed at the point of separation between the public water supply and a private service or private distribution system or at the point of metering.

CONTAMINATION. The presence of any foreign substance (organic, inorganic, radiological or biological) in water that tends to degrade its quality as to constitute a hazard or impair the usefulness of the water.

CONTAINMENT DEVICE. A backflow prevention device, as approved and required, installed at the point of separation between the public water supply and a private service or private distribution system or at the point of metering.

CROSS-CONNECTION. Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such a manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

CROSS-CONNECTION CONTROL COORDINATOR. The official position established and authorized by the town designated by the (operator in responsible charge) to administer, interpret this section and who shall be a certified tester.

DOUBLE CHECK VALVE BACKFLOW PREVENTION DEVICE. An approved assembly composed of two single, spring-loaded independently operating check valves, including tightly closing shut-off valves located at each end of the assembly, and having suitable connections for testing the water tightness of each check valve.

DUAL CHECK VALVE. An approved device containing two independently acting check valves in series.

FIRE LINE. A system of pipes and equipment used to supply water in an emergency for extinguishing fire.

INTERCONNECTION. Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, heat exchanger, storage reservoir or other device which does or may contain sewage or other waste or substance which would be capable of imparting contamination to the public water supply.

PRESSURE VACUUM BREAKER. An approved assembly containing an independently operating spring loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly must be equipped with suitable connections for testing the proper operation of the device and tightly closing shut-off valves located at each end of the assembly.

PUBLIC WATER SUPPLY. The water and waterworks system of the town and its customers outside the town limits, for general use and which supply is recognized as the public water supply by the North Carolina Department of Environmental Health and Natural Resources.

REDUCED PRESSURE ZONE PRINCIPLE BACKFLOW PREVENTION DEVICE (RPZ). An approved device containing within its structure, two spring loaded independently operating check valves, together with an automatically operating pressure differential relief valve located between the two check valves. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow the pressure between the checks shall be less than the supply pressures. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves less than the supply pressure. This device shall have suitable connections for testing the proper operation of the device, including tightly closing shut-off valves located at each end of the device.

(Ord. passed 1-10-2005; Ord. passed - -)

§ 52.81 COMPLIANCE WITH FEDERAL AND STATE LAW.

The town will comply with the Federal Safe Drinking Water Act, the North Carolina Drinking Water Act, and North Carolina State Building Code, which pertain to cross-connections, auxiliary intakes and interconnections, and establish an effective ongoing program to control potential sources of contamination of the public water supply.

(Ord. passed 1-10-2005; Ord. passed - -)

§ 52.82 UNLAWFUL CONNECTIONS.

It shall be unlawful for any person to cause a cross-connection, auxiliary intake or interconnection to be made; or allow one to exist for any purpose whatsoever.
(Ord. passed 1-10-2005; Ord. passed - -) Penalty, see § 52.99

§ 52.83 INSPECTION OF PROPERTY.

It shall be the duty, upon request of the operator in responsible charge, of the cross-connection coordinator to cause inspections to be made of properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspections shall be set by the operator in responsible charge.
(Ord. passed 1-10-2005; Ord. passed - -)

§ 52.84 RIGHT OF ACCESS.

The person in responsible charge or authorized representative shall have the right to enter, at reasonable time, any nonresidential property served by a connection to the town public water supply for the purpose of performing the duties of this subchapter. In those cases in which the property owner chooses not to provide such access, the operator in responsible charge, or authorized representative, may designate the location as a high hazard in accordance with § 52.86.
(Ord. passed 1-10-2005; Ord. passed - -)

§ 52.85 EXISTING CONDITIONS.

Any consumer shall be allowed 90 days to correct any cross-connections, auxiliary intakes, interconnections or other hazard as defined by § 52.86 of this code in violation of the provisions of this subchapter. The 90 days will be from the date of receipt of the notification given by the operator in responsible charge.
(Ord. passed 1-10-2005; Ord. passed - -)

§ 52.86 HAZARDOUS USES.

(A) The following uses shall be classified as hazardous uses:

(1) Hazardous uses include, but are not limited to pumps and tanks handling sewage, radioactive, lethal, or toxic substances, boiler and steam connections, sewer waste lines, low inlets to receptacles containing toxic substances, coils or jackets used as heat exchangers, flush valve toilets without vacuum breaks, bacterial and viral materials, private wells or other private water supply, irrigation systems, water systems or hose connections, with booster pumps, carbonation equipment, or similar hazard potential as determined by the operator in responsible charge.

(2) Any location at which the nature or mode of operations within a premises are such that frequent alterations are made to the plumbing or at which there is a likelihood in the determination of the operator in responsible charge that protective measures may be subverted, altered or disconnected.

(3) Any facility which contains, but is not limited to, a bottling plant, cannery, building have five or more stories, battery manufacturer, exterminator, greenhouse, chemical processing plant, dairy, dye works, film laboratory, car wash, hospital, commercial laboratory, laundry, metal fabricating operations, mortuary, swimming pool, morgue, x-ray equipment, medical office with laboratory, aspirator, medical washing equipment, packing house, plating plant, poultry house, power plant, nuclear reactor, those fire sprinkler systems equipped with facilities for introduction of freeze preventive chemicals or other substances other than water, dental office, any radioactive material, restaurant, shopping mall with tenant conducting any activity listed in this section and sewage pump or treatment facilities.

(B) All installations described in this section shall be deemed hazardous uses, and must have a containment device in the form of a reduced pressure zone backflow prevention device provided that, if the consumer demonstrates to the satisfaction of the cross-connection coordinator that sufficient internal confinement devices have been installed and tested. The cross-connection coordinator may require that the consumer provide engineering drawings sealed by a professional engineer of installations within the premises, which provide complete internal protection against cross-connection as approved by the cross-connection coordinator. Any such connection shall be considered another connection for determining the type of containment device required. Each internal confinement device shall be one of the following, as approved by the operator in responsible charge or his/her authorized representative: reduced pressure zone principle backflow prevention device, double check valve backflow prevention device, air gap, vacuum break-pressure type or dual check valve. Each reduced pressure zone principal backflow prevention device serving as an internal confinement device shall have a mesh strainer immediately upstream of the inlet gate valve.

(C) No person shall fill any tanks or tankers which include the following: those containing pesticides, fertilizers, other toxic chemicals or residues, flush trucks, street sweepers, and non-potable water tankers from a public water system except with an approved air gap fill or an approved reduced pressure backflow preventer properly installed on the tank or tanker or on the public water supply fill pipeline or hose.

(Ord. passed 1-10-2005; Ord. passed - -) Penalty, see § 52.99

§ 52.87 OTHER CONNECTIONS.

(A) Services to single-family residential units, not otherwise required by this subchapter to have other containment devices, may have a containment device in the form of an approved dual check valve on all such services which meters are applied more than 90 days following the date of adoption of this subchapter, said dual check valves or other containment devices as required shall be installed by the owner's representative prior to the installation of the meter by the Water Administration Division's meter readers. On all such services for which meters have been applied prior to that date, said dual check valve shall be installed by the Water Operations Division or licensed contractor, provided that the town

reserves the right to charge the owner or occupant of any residence for the cost of said device and its installation. Maintenance of dual check valve containment devices installed in accordance with this section shall be conducted by the cross-connection operator responsibly-in-charge testable containment devices that are required on lawn irrigation water systems and must be tested every two years by a contractor that has been approved by the town.

(B) All other connections to the public water supply of the town shall have containment devices in the form of a double check valve backflow prevention device as set forth in this section. This shall include water mains installed to town standard, and with town supervision, but which are not maintained by the town, including but not limited to manufactured home parks, apartments, group housing projects, and other private distribution systems, or similar hazard potential as determined by the operator in responsible charge or his/her authorized representative. Private distribution systems shall be configured so as to provide looped mains, with two or more containment devices on each building water service connection and at dead-end branch mains.

(Ord. passed 1-10-2005; Ord. passed - -)

§ 52.88 INSTALLATION OF CONTAINMENT DEVICES.

(A) The containment devices shall be located off street right-of-way on the water main side of any plumbing connections. The consumer shall not install any unprotected takeoffs between the point of delivery from the public potable water supply system and the containment devices. When installed in a building, the device shall be located on the service line immediately after its entrance into the building, and prior to any fixture or discharge point. Each containment and confinement device shall be installed in a location that is physically accessible for inspection and testing as determined by the cross-connection coordinator. Containment devices, which have been buried in the ground, do not satisfy the provisions of this subchapter. Each reduced pressure principle zone device shall be installed such that flooding of the device is unlikely as determined by the operator in responsible charge.

(B) The operator in responsible charge shall maintain a list of approved manufacturers and models of hazard containment devices and drawings of standard installation, copies to be made available through the Office of the Director of Water and Wastewater Resources and the town inspector's office. All reduced pressure zone principle backflow prevention devices and double check valve backflow prevention devices shall be approved by the Foundation for Cross Connection Control and Hydraulic Research. All vacuum breaks and dual check valve devices shall be approved by the American Society for Sanitary Engineers. All installations and materials shall conform to town standards as set by the operator in responsible charge.

(C) In those cases in which containment and/or confinement devices have been previously installed by prior owners, the town or other parties, the responsibility for maintenance, testing and replacement as applicable shall be with the consumer.

(D) The cost of said means of containment, and any other plumbing modifications necessary and convenient thereto, and the testing and maintenance thereof is to be paid for by the consumer.
(Ord. passed 1-10-2005; Ord. 2008-4, passed 7-28-2008; Ord. passed - -)

§ 52.89 NEW CONSTRUCTION.

All buildings, proposing to connect to the public water system of the town receiving building permits, on or after the effective date of this subchapter, shall be equipped with an approved and tested as properly functioning backflow prevention device(s), as prescribed herein, prior to the issuance of a certificate of code compliance for that building. If a building permit was issued for the building prior to the effective date of the subchapter, or a building permit was not required, the building shall be considered to be an existing building prior to the effective date, in accordance with § 52.83 of this subchapter.

(Ord. passed 1-10-2005; Ord. passed - -)

§ 52.90 NOTIFICATION OF CONSUMER.

(A) Upon identification of a hazard, or hazard potential, as defined in §§ 52.86 and 52.87, the cross-connection coordinator, shall notify the consumer, of record, of the property on which the hazard exists of the following:

- (1) Location of hazard;
- (2) Nature of hazard observed;
- (3) Date hazard observed;
- (4) Section of code applicable; and
- (5) Requirements of code.

(B) Such notification to be made by certified mail, with return receipt requested.

(Ord. passed 1-10-2005; Ord. passed - -)

§ 52.91 CHANGE IN NATURE OF USE.

The operator in responsible charge shall be notified by the consumer the nature of use of the property changes so as to change the hazard classification of that property, as set forth in §§ 52.86 and 52.87 of this subchapter.

(Ord. passed 1-10-2005; Ord. passed - -)

§ 52.92 CONSUMER RESPONSIBILITIES.

(A) The consumer shall, upon notification, as defined in § 52.90 of this subchapter, install the hazard containment device(s) as required within 14 days for health hazards and 21 days for non-health hazards, from the date of notification.

(B) If, after expiration of the 14 days for health hazards and 21 days for non-health hazards, the containment device(s) has not been installed in conformance with standards set by the operator in responsible charge, in a proper working condition, the operator in responsible charge may discontinue the public water supply service at that premises, and service shall not be restored until such devices have been installed. The operator in responsible charge may permit an extension of up to 90 additional days if compliance efforts are underway and the existence of hardship can be demonstrated.

(C) If in the opinion of the operator in responsible charge, a cross connection or potential cross-connection poses an immediate threat to life, the operator in responsible charge may immediately discontinue water service at that premises and services shall not be restored until such devices have been installed.

(D) The town shall bear no liability for direct or consequential damages proximately caused by the discontinuance of service pursuant to this section.
(Ord. passed 1-10-2005; Ord. 2009-1, passed 2-9-2009; Ord. passed - -)

§ 52.93 TESTING AND MAINTENANCE OF DEVICES.

The consumer at each property at which containment and/or confinement device(s) have been installed, except those with devices installed in accordance with § 52.87(A) of this subchapter, shall have each containment and/or confinement device(s) tested on an annual basis, and perform any routine maintenance to such device as recommended by the manufacturer, and provide the cross-connection coordinator with a report of that inspection and work. The consumer shall cause such maintenance or repairs to be made, rendering the device fully operational. Failure of the consumer to perform that testing and maintenance shall be cause for the premises to be deemed an immediate public health hazard. The operator in responsible charge may immediately thereafter discontinue public water supply service to that premises and service shall not be restored until such devices have been rendered operational. Where the use of water is critical to the continuance of normal operations or protection of life, property or equipment, duplicated containment or confinement devices shall be provided by the property owner to avoid the necessity of discontinuing water service to test or repair the device or devices.
(Ord. passed 1-10-2005; Ord. passed - -)

§ 52.94 ENFORCEMENT.

(A) *Assessment.* Any civil penalty shall be assessed by the Town Manager, upon the recommendation of the operator in responsible charge, and shall be based upon the reasonable estimated cost of correcting the cited violation, the magnitude of the potential risk posed to the public health, safety

and welfare by the violation, and the cost of the public safety or other emergency response caused by the violation. The Town Manager shall serve written notice of the civil penalty assessment and the offender and set out with reasonable care the basis of the amount so assessed.

(B) *Equitable relief.* An appropriate equitable remedy, including a mandatory or prohibitory injunction, issuing from a court of competent jurisdiction may endorse the provisions of this subchapter.

(C) *Enforcement option.* The penalties and enforcement provisions established by this subchapter may be applied in addition to or instead of the penalties established by other sections of this code. (Ord. passed 1-10-2005; Ord. passed - -)

§ 52.95 LIMITATION OF LIABILITY.

The town shall not be held liable, for any cause, for failure to detect any unit failing to operate adequately, or failure to identify any specific hazard, which may result in contamination of its public water supply, nor shall this subchapter diminish the responsibility of any property owner from whose property a contamination of the public water supply may originate.

(Ord. passed 1-10-2005; Ord. passed - -)

§ 52.99 PENALTY.

(A) In the event a consumer is found in violation of §§ 52.60 through 52.69 and fails to correct the violation in a timely manner or to pay any civil penalty or expense assessed under this section, water service may be terminated, and shall be reestablished when the violation is corrected and any applicable civil penalties are paid.

(B) The violation of any section of §§ 52.60 through 52.69 may be punished by a civil penalty listed as followed:

(1) Unprotected cross-connection involving a private water system which creates an imminent hazard, \$1,000 per day not to exceed \$10,000.

(2) Unprotected cross-connection involving a private water system which is of a moderate or high hazard, \$500 per day not to exceed \$5,000.

(3) If in the judgment of the town, any consumer, manager, supervisor or person in charge of any installation is found to be in noncompliance with the provisions of §§ 52.60 through 52.69 and/or neglects their responsibility to correct a violation, water service may be discontinued until compliance is achieved.

(4) Failure of a consumer or certified tester to submit any record required by §§ 52.60 through 52.69, or the submission of falsified reports/records may result in a civil penalty of up to \$500 per

violation. If a certified backflow prevention assembly tester submits falsified records to the town, the town shall permanently revoke that tester.

(5) Failure to test or maintain backflow prevention assemblies as required, \$200 per day.

(C) Violation of any provision of §§ 52.80 through 52.95 may subject the offender to a civil penalty to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within 30 days after the assessment has become final by exhaustion of the appeal process established by this section, or by failure to appeal the assessment.

(D) The civil penalty for violation of any provision of §§ 52.80 through 52.95 shall not exceed \$500 per day for each day of continuous violation, or a cumulative or single civil penalty of \$10,000. The civil penalty for willful violation shall not exceed \$1,000 per day for each day of a continuous violation, or a cumulative or single civil penalty of \$20,000.

(Ord. passed 1-10-2005; Ord. passed - -)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC RULES**
- 72. STOPPING, STANDING, AND PARKING**
- 73. BICYCLE REGULATIONS**
- 74. GOLF CARTS ON CERTAIN PUBLIC STREETS**

Mount Gilead - Traffic Code

CHAPTER 70: GENERAL PROVISIONS

Section

General Provisions

- 70.01 Definitions
- 70.02 Application of regulations to authorized emergency vehicles
- 70.03 Enforcement by Police and Fire Department officials; obedience required

Traffic-Control Devices

- 70.15 Obedience required
- 70.16 Signs required for enforcement
- 70.17 Traffic-control signal legend
- 70.18 Pedestrian control signals
- 70.19 Flashing signals
- 70.20 Display of unauthorized signals
- 70.21 Interference with official traffic-control devices
- 70.22 Traffic lanes
- 70.23 School zones
- 70.24 Stop signs
- 70.25 Yield signs

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GENERAL PROVISIONS

§ 70.01 DEFINITIONS.

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

ALLEY. A thoroughfare through the middle of a block.

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

BICYCLE. Every device propelled by human power upon which any person may ride, having two tandem wheels either of which is over 20 inches in diameter.

BUSINESS DISTRICT. The territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

COMMERCIAL VEHICLE. Every vehicle designed, maintained, or used primarily for the transportation of property.

CONTROLLED-ACCESS HIGHWAY. Every highway, street, or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

CROSSWALK. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs from the edges of traversable roadway. Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

CURB LOADING ZONE. A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

DRIVER. Every person who drives or is in actual physical control of a vehicle.

FREIGHT CURB LOADING ZONE. A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of freight or passengers.

INTERSECTION. The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of the two highways which join one another at or approximately at right angles, or the area at or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

LANED ROADWAY. A roadway which is divided into two or more clearly marked lanes for vehicular traffic.

MOTOR VEHICLE. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

MOTORCYCLE. Every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

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

PARK. When prohibited means the standing of a vehicle whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading.

PASSENGER CURB LOADING ZONE. A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

PEDESTRIAN. Any person on foot.

PERSON. Every natural person, firm, co-partnership, association, or corporation.

POLICE OFFICER. Every officer of the Police Department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

PRIVATE ROAD OR DRIVEWAY. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

RAILROAD. A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

RAILROAD TRAIN. A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

RESIDENCE DISTRICT. The territory contiguous to and including a highway not comprising a business district when the property on such highway for the distance of 300 feet or more is in the main improved with residence or residences and buildings in use for business.

RIGHT-OF-WAY. The privilege of the immediate use of the roadway.

ROADWAY. That portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or 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.

SAFETY ZONE. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

SIDEWALK. The portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

STOP. When required, means complete cessation of movement.

STOP, STOPPING, or STANDING. When prohibited means any stopping or standing of a vehicle whether occupied or not, 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.

STREET or HIGHWAY. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

STREETCAR. A car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality.

THROUGH HIGHWAY. Every street or highway or portion thereof at the entrances to which vehicular traffic from intersecting streets or highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this act.

TRAFFIC. Pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any street for purposes of travel.

TRAFFIC-CONTROL SIGNAL. Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

TRAFFIC DIVISION. The Traffic Division of the Police Department of this town, or in the event a traffic division is not established, then said term whenever used herein shall be deemed to refer to the Police Department of the town.

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

§ 70.02 APPLICATION OF REGULATIONS TO AUTHORIZED EMERGENCY VEHICLES.

The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(A) The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this chapter;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

- (3) Exceed the prima facie speed limits so long as he does not endanger life or property; and
- (4) Disregard regulations governing direction of movement or turning in specified directions.

(B) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle, while in motion, sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary. When the vehicle is equipped with at least one lighted lamp displaying a light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle operated as a police vehicle need not be equipped with or display a light visible from in front of the vehicle.

(C) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his or her reckless disregard for the safety of others.

Statutory reference:

Emergency vehicles, exceptions to right-of-way rules, see G.S. § 20-156

§ 70.03 ENFORCEMENT BY POLICE AND FIRE DEPARTMENT OFFICIALS; OBEDIENCE REQUIRED.

(A) It shall be the duty of the officers of the Police Department to enforce all street traffic laws and all of the state vehicle laws applicable to street traffic.

(B) Officers of the Police Department are authorized to direct traffic by voice, hand, or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require notwithstanding the provisions of traffic laws.

(C) Officers of the Fire Department, when at the scene of any fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(D) No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or Fire Department official.

Penalty, see § 70.99

TRAFFIC-CONTROL DEVICES**§ 70.15 OBEDIENCE REQUIRED.**

The driver of any vehicle and the motorman of any streetcar shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the traffic ordinances, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this traffic code.

Penalty, see § 70.99

§ 70.16 SIGNS REQUIRED FOR ENFORCEMENT.

No provision of this traffic code for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

§ 70.17 TRAFFIC-CONTROL SIGNAL LEGEND.

Whenever traffic is controlled by traffic-control signals exhibiting the words "go," "caution," or "stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and said in terms and light shall indicate and apply to drivers or vehicles and pedestrians as follows.

(A) *Green alone or "go."*

(1) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked cross walk.

(B) *Yellow alone or "caution" when shown following the green or "go" signal.*

(1) Vehicular traffic facing the signal is thereby warned that the red or "stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "stop" signal is exhibited.

(2) No pedestrian facing such signal shall enter the roadway until the green or "go" is shown alone unless authorized so to do by a pedestrian "walk" signal.

(C) *Red alone or "stop."*

(1) Vehicular traffic facing the signal shall stop before entering the cross walk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "go" is shown alone.

(2) No pedestrian facing such signal shall enter the roadway until the green or "go" is shown alone, or authorized so to do by a pedestrian "walk" signal.

(D) *Red with green arrow.*

(1) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a cross walk and to other traffic lawfully using the intersection.

(2) No pedestrian facing such signal shall enter the roadway until the green or "go" is shown alone or authorized to do so by a pedestrian "walk" signal.

(E) *Signals at other than intersections.* In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(F) *Signals to apply to streetcar same as vehicles.* The motorman of any streetcar shall obey the above signals as applicable to vehicles.

Penalty, see § 70.99

§ 70.18 PEDESTRIAN CONTROL SIGNALS.

Whenever special pedestrian-control signals exhibiting the words "walk" or "wait" or "don't walk" are in place, such signals shall indicate as follows.

(A) *Walk.* Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way over the drivers of all vehicles.

(B) *Wait or don't walk.* No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his or her crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

Penalty, see § 70.99

§ 70.19 FLASHING SIGNALS.

Whenever an illuminated flashing red or yellow signal is used in traffic sign or signal, it shall require obedience by vehicular traffic as follows.

(A) *Flashing red (stop signal)*. When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(B) *Flashing yellow (caution signal)*. When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. Penalty, see § 70.99

§ 70.20 DISPLAY OF UNAUTHORIZED SIGNALS.

(A) No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is in imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

(B) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(C) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(D) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice. Penalty, see § 70.99

§ 70.21 INTERFERENCE WITH OFFICIAL TRAFFIC-CONTROL DEVICES.

No person shall without lawful authority attempt to, or in fact, alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof. Penalty, see § 70.99

§ 70.22 TRAFFIC LANES.

Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

Penalty, see § 70.99

§ 70.23 SCHOOL ZONES.

Whenever authorized signs are placed designating any street or part thereof as a school zone, drivers of motor vehicles using the street shall exercise the greatest care for the protection of children.

Penalty, see § 70.99

§ 70.24 STOP SIGNS.

(A) Whenever any ordinance designates and describes a through street, there shall be a stop sign on each and every street intersecting such through street or intersecting that portion thereof described and designated as such by any ordinance unless traffic at any such intersection is controlled at all times by traffic-control signals; provided, however, that at the intersection of two such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of said streets.

(B) Every sign erected pursuant to this section shall bear the word "stop" in letters not less than eight inches in height and such sign shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign. Every stop sign shall be located as near as practicable at the nearest line of the crosswalk on the near side of the intersection or, if none, at the nearest line of the roadway.

§ 70.25 YIELD SIGNS.

(A) The driver of a vehicle approaching a yield sign shall slow down and yield the right-of-way to any pedestrian crossing the roadway on which he or she is driving and to any vehicle in movement on the main traveled or through highway or 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 or highway.

(B) The driver of the vehicle approaching a yield sign, if required to stop, shall stop before entering the crosswalk on the near side of the intersection; or in the event there is no crosswalk, at a clearly marked stop line; but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

(C) In accordance with the above, and when signs are erected giving notice thereof, drivers of vehicles when entering designated or main traveled or through streets from intersecting streets in the

direction or directions shown, shall yield the right-of-way to approaching pedestrians or vehicles.
Penalty, see § 70.99

§ 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

General Provisions

- 71.01 Speed limits
- 71.02 Vehicles to stop at stop signs
- 71.03 Use of skateboards, motorized scooters, or similar devices prohibited in business districts
- 71.04 Clinging to vehicles

Turning Movements

- 71.15 Required position and method of turning at intersections
- 71.16 Turning markers
- 71.17 Authority to place restricted turn signs
- 71.18 Obedience to no-turn signs

Cross-reference:

Drivers to stop upon approach of fire apparatus, see § 32.18

GENERAL PROVISIONS

§ 71.01 SPEED LIMITS.

No person shall operate any motor vehicle upon any of the streets of the town at a greater speed than is reasonable and proper, having regard to the width, traffic, and use of said street, or so as to endanger the property or life or limb of any person. The Board of Commissioners has the authority to set the speed limit on any municipal street. No person shall operate a motor vehicle at a speed that is higher than the posted speed limit.

Penalty, see § 70.99

§ 71.02 VEHICLES TO STOP AT STOP SIGNS.

When stop signs are erected as herein authorized at or near the entrance to any intersection, every driver of a vehicle and every motorman of a streetcar shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but

if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection except when directed to proceed by a police officer or traffic-control signal.

Penalty, see § 70.99

§ 71.03 USE OF SKATEBOARDS, MOTORIZED SCOOTERS, OR SIMILAR DEVICES PROHIBITED IN BUSINESS DISTRICTS.

No person shall operate, ride, or use skateboards, motorized scooters, motorized skateboards, or any other similar devices on streets, highways, sidewalks, parks, parking lots, or other public vehicular areas in the downtown Central Business District or in the General Business District area of the town as designated by the Town Zoning Map.

Penalty, see § 70.99

§ 71.04 CLINGING TO VEHICLES.

No person riding upon any bicycle, motorcycle, motor-driven cycle, coasting wagon, sled, roller skates, or any toy vehicle shall attach the same or himself or herself to any vehicle upon any street or highway in the town.

Penalty, see § 70.99

TURNING MOVEMENTS

§ 71.15 REQUIRED POSITION AND METHOD OF TURNING AT INTERSECTIONS.

The driver of a vehicle intending to turn at an intersection shall do so as follows.

(A) *Right turns.* Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(B) *Left turns on two-way roadways.* At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(C) *Left turns on other than two-way roadways.* At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being centered.

Penalty, see § 70.99

§ 71.16 TURNING MARKERS.

When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

Penalty, see § 70.99

§ 71.17 AUTHORITY TO PLACE RESTRICTED TURN SIGNS.

The Board of Commissioners shall 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. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

Penalty, see § 70.99

§ 71.18 OBEDIENCE TO NO-TURN SIGNS.

Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

Penalty, see § 70.99

Mount Gilead - Traffic Code

CHAPTER 72: STOPPING, STANDING, AND PARKING

Section

General Provisions

- 72.01 Parking signs required
- 72.02 Manner of parking
- 72.03 Unattended vehicles
- 72.04 Standing or parking for certain purposes

Stopping, Standing, or Parking in Certain Locations

- 72.15 Stopping, standing, or parking prohibited in certain locations
- 72.16 Parking in alleys
- 72.17 Stopping, standing, or parking near hazardous or congested places
- 72.18 Stopping, standing, or parking in certain privately owned vehicular areas
- 72.19 Stopping, standing, or parking restricted or prohibited on certain streets

Loading or Unloading

- 72.30 Loading and unloading zones
- 72.31 Public carrier stops and stands

GENERAL PROVISIONS

§ 72.01 PARKING SIGNS REQUIRED.

Whenever by this or any other section any parking time limit is imposed or parking is prohibited in designated streets, there shall be appropriate signs giving notice thereof and no regulations shall be effective unless the signs are posted and in place at the time of any alleged offense.

§ 72.02 MANNER OF PARKING.

(A) *Standing or parking close to curb.* No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right hand wheels of the vehicle within 18 inches of the curb or edge of the roadway except as otherwise provided in this chapter.

(B) *Parking not to obstruct traffic.* No person shall park any vehicle upon any street, other than an alley, in a manner or under any conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic.
Penalty, see § 70.99

§ 72.03 UNATTENDED VEHICLES.

It shall be unlawful for any person to leave the engine or motor of any vehicle running while it is parked upon the streets.
Penalty, see § 70.99

§ 72.04 STANDING OR PARKING FOR CERTAIN PURPOSES.

(A) *Standing or parking for certain purposes prohibited.* It shall be unlawful for any person to stand or park a vehicle upon any street of the town for the principal purposes of the following:

- (1) Displaying for sale;
- (2) Washing, greasing, or repairing such vehicle, except repairs made necessary by a bona fide emergency;
- (3) Storing by garages, dealers, or other persons when the storing is not incident to the bona fide use and operation of the automobile or other vehicle; and/or
- (4) Storing of any detached trailer or van when the towing unit has been disconnected or for the purpose of transferring merchandise or freight from one vehicle to another.

(B) *Stopping, standing, or parking for primary purpose of advertising prohibited.* No person shall stand or park on any street any vehicle for the primary purpose of advertising.
Penalty, see § 70.99

STOPPING, STANDING, OR PARKING IN CERTAIN LOCATIONS

§ 72.15 STOPPING, STANDING, OR PARKING PROHIBITED IN CERTAIN LOCATIONS.

(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) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within 15 feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 20 feet of a crosswalk at an intersection;
- (7) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;
- (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless signs or markings indicate a different length;
- (9) Within 50 feet of the nearest rail of a railroad crossing;
- (10) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance of any fire station within 75 feet of said entrance (when properly signposted);
- (11) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
- (12) On a roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
- (14) At any place where official signs prohibit stopping; and/or
- (15) Upon any area designated as a fire lane in any public vehicular area, street, highway, or roadway or in any mall parking lot or shopping center, unless the parking is temporary for the purpose of loading or unloading supplies or merchandise and the vehicle is not left unattended.

(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.

Penalty, see § 70.99

§ 72.16 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.

Penalty, see § 70.99

§ 72.17 STOPPING, STANDING, OR PARKING NEAR HAZARDOUS OR CONGESTED PLACES.

When official signs are erected at hazardous or congested places no person shall stop, stand, or park a vehicle in any designated place.

Penalty, see § 70.99

§ 72.18 STOPPING, STANDING, OR PARKING IN CERTAIN PRIVATELY OWNED VEHICULAR AREAS.

(A) No person shall stop, stand, or park any vehicle in the parking area or driveways of a hospital, shopping center, amusement house, condominium complex, or commercial office complex, or any other privately owned public vehicular area provided:

(1) The owner or person in charge of the operation and control of that area requests in writing that such an ordinance be adopted and enforced on his or her premises; and

(2) A copy of such request must be on file in the office of the Town Clerk stating the times that they wish stopping, standing, or parking of any vehicle on their premises after closing hours of that establishment.

(B) A file containing all requests for the adopting and enforcement of the ordinance shall be maintained in the office of the Town Clerk for inspection during normal business hours.

(C) The owner of a vehicle parked in violation of this section shall be deemed to have appointed any appropriate law enforcement officer as his or her agent for the purpose of arranging for the transportation and safe storage of such vehicle at the owner's expense.

Penalty, see § 70.99

§ 72.19 STOPPING, STANDING, OR PARKING RESTRICTED OR PROHIBITED ON CERTAIN STREETS.

(A) *Application of section.* The provisions of this section 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) *Regulations not exclusive.* The provisions of this section 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) *Parking prohibited at all times on certain streets.* When signs are erected giving notice thereof, no person shall stop, stand, or park any vehicle at any time upon any of the streets so posted. Such restricted areas can be ascertained in the office of the Town Manager.

(D) *Parking time limit on certain streets.* When signs are erected in each block giving notice thereof, no person shall park a vehicle for longer than the times specified within the district or upon any of the streets so posted. Such restricted areas can be ascertained in the office of the Town Manager.
Penalty, see § 70.99

LOADING OR UNLOADING

§ 72.30 LOADING AND UNLOADING ZONES.

No person shall stop, stand, or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three minutes.

Penalty, see § 70.99

§ 72.31 PUBLIC CARRIER STOPS AND STANDS.

No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any stop has been official designated and appropriately signed. The driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers and when stopping does not interfere with any bus or taxicab waiting to enter or about to enter the zone.

Penalty, see § 70.99

Mount Gilead - Traffic Code

CHAPTER 73: BICYCLE REGULATIONS

Section

- 73.01 Application of traffic laws
- 73.02 Responsibility of parents and guardians; application of regulations
- 73.03 Obedience to traffic-control devices
- 73.04 Manner of riding
- 73.05 Speed
- 73.06 Carrying articles
- 73.07 Riding on sidewalks
- 73.08 Riding on roadways and bicycle paths

Cross-reference:

Clinging to vehicles, see § 71.04

§ 73.01 APPLICATION OF TRAFFIC LAWS.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by this chapter applicable to the driver of a vehicle, except as to those provisions of laws and ordinances which by their nature can have no application.

Penalty, see § 70.99

§ 73.02 RESPONSIBILITY OF PARENTS AND GUARDIANS; APPLICATION OF REGULATIONS.

(A) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any child or ward to violate any of the provisions of this chapter.

(B) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

Penalty, see § 70.99

§ 73.03 OBEDIENCE TO TRAFFIC-CONTROL DEVICES.

(A) Any person operating a bicycle shall obey the instruction of official traffic-control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(B) Whenever authorized signs are erected indicating that no right or left or U turn is permitted, no persons operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

Penalty, see § 70.99

§ 73.04 MANNER OF RIDING.

(A) A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

(B) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

Penalty, see § 70.99

§ 73.05 SPEED.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

Penalty, see § 70.99

§ 73.06 CARRYING ARTICLES.

No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.

Penalty, see § 70.99

§ 73.07 RIDING ON SIDEWALKS.

(A) No person shall ride a bicycle upon a sidewalk within a business district.

(B) The Chief of Police is authorized to erect signs on any roadway prohibiting the riding of bicycles thereon by any person and when the signs are in place no person shall disobey the signs.

(C) Whenever any person is riding a bicycle upon a sidewalk, the person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing the pedestrian.
Penalty, see § 70.99

§ 73.08 RIDING ON ROADWAYS AND BICYCLE PATHS.

(A) Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(B) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(C) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use the path and shall not use the roadway.
Penalty, see § 70.99

Mount Gilead - Traffic Code

CHAPTER 74: GOLF CARTS ON CERTAIN PUBLIC STREETS

Section

- 74.01 Purpose
- 74.02 Findings; authority
- 74.03 Definitions
- 74.04 Golf cart design criteria
- 74.05 Registration process and fee prior to usage
- 74.06 Operation restrictions: rules and regulations
- 74.07 Operation on town streets and roads within the plan area
- 74.08 Safety inspection
- 74.09 Insurance requirements
- 74.10 Liability disclaimer
- 74.11 Enforcement

- 74.99 Penalty

§ 74.01 PURPOSE.

The purpose of this chapter shall be to establish golf cart regulations within the town to promote health, safety, and welfare of persons operating cart(s) within the town, and to protect the safety of their passengers and other users of the roads.
(Ord. passed 12-4-2018)

§ 74.02 FINDINGS; AUTHORITY.

(A) The town finds and determines that:

(1) Establishment of this chapter and the transportation plan will serve to expand mobility to those persons not operating automobiles;

(2) The selected areas for golf cart travel will be roads and highways within the town limits with speed limits of 35 miles per hour or less (and less otherwise stated) and will not cause an adverse impact upon traffic safety; and

(3) The regulations and use of golf carts on streets and highways in the town will fall under the provisions outlined throughout this chapter and will require liability insurance sufficient to cover the risk involved in using a golf cart on the streets of the town.

(B) The town has statutory authority to adopt this chapter pursuant the provisions of G.S. § 160A-300.6.
(Ord. passed 12-4-2018)

§ 74.03 DEFINITIONS.

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

DRIVER'S LICENSE. A valid license issued to operate a motor vehicle issued by North Carolina or any other state.

FINANCIAL RESPONSIBILITY. Liability insurance coverage on a golf cart in an amount not less than required by state law for motor vehicles operated on public highways in the state.

GOLF CART. A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour. This does not include vehicles known as all-terrain vehicles (ATVs) or go-carts. See also G.S. § 20-4.01(12a).

OPERATOR. Only persons over 16 years of age and holding a valid driver's license may operate a golf cart on the roads.

PLAN AREA. The area within the town limits that golf carts will be allowed to travel, which includes any public street or highway (not restricted elsewhere in this chapter) within the town limits with a speed limit of 35 miles per hour or less and controlled by the town.

TOWN. The Town of Mount Gilead, North Carolina.
(Ord. passed 12-4-2018)

§ 74.04 GOLF CART DESIGN CRITERIA.

(A) *Minimum golf cart vehicle design criteria and travel plan areas established.* In order for a golf cart to pass the town inspection it must meet the requirements or minimum standards of safety equipment as set forth in this chapter. Golf carts must have basic equipment supplied by the manufacturer, including a vehicle identification or serial number. Such equipment must include all safety devices as installed by said manufacturer, including rear view mirror and a rear triangle reflector of the same type required by state law.

(B) The following are minimum design and equipment requirements: the golf cart must be the shape and size that conforms to industry standards for manufactured golf carts.

(C) The golf cart must be equipped and safely operated with:

(1) Either an unobstructed rear-view mirror and left side mirror, or a wide angle cross bar rear-view mirror;

(2) Headlights and taillights if it is to be driven after dark, and slow moving vehicle emblems that conform to G.S. § 20-129;

(3) Golf carts may have "lift kits" but no golf cart may be more than 22 inches high measured from the ground to the floorboard of the cart;

(4) Golf carts must be equipped with two operating headlights, one on each side of the front of the golf cart, and two operating taillights, one on each side of the rear of the golf cart, all four of which must be visible from a distance of 500 feet. The owner of a registered golf cart must maintain the golf cart in good condition and state of repair at all times; and

(5) Any other requirements as set forth by the Mount Gilead Police Department for inspection in order to ensure safe operation.

(Ord. passed 12-4-2018) Penalty, see § 74.99

§ 74.05 REGISTRATION PROCESS AND FEE PRIOR TO USAGE.

(A) Any person seeking to use a golf cart as permitted under this chapter must complete a golf cart registration application and submit it to the Mount Gilead Police Department for approval prior to usage on a public road. Before driving on public roads, the operator of a golf cart must have a validly issued registration from the Police Department. The cost for processing the application for the initial registration shall be \$50, which will be due at the time of registration. After the initial registration, the golf cart must be renewed annually at a cost of \$20. Upon approval, the registration sticker issued by the Police Department must be displayed on the driver's side front fender or windshield of the golf cart so that it is easily visible to law enforcement personnel.

(B) Each owner must have proof of ownership and liability insurance. These documents must be in the golf cart at all times when the golf cart is being operated on any public road. Copies of such documents must be filed with the Police Department. All golf cart operators must present a valid driver's license while operating a golf cart on a public road. The registration sticker shall be valid for no more than one year and must be visible on a golf cart operated on a public road. Lost or stolen registration stickers are the responsibility of the owner and must be replaced before the golf cart is open operated on a public road.

(Ord. passed 12-4-2018) Penalty, see § 74.99

§ 74.06 OPERATION RESTRICTIONS: RULES AND REGULATIONS.

The following restrictions limiting the operation of golf carts in the town and the following rules and regulations shall apply.

(A) Only those golf carts that have the necessary safety equipment specified herein and have obtained the proper registration sticker from the town may be operated under the provisions of this chapter.

(B) (1) Golf cart transportation is limited to those streets and highways within the town limits which have a posted speed limit of 35 miles per hour or less (unless otherwise noted below).

(2) Golf carts may not be operated on the following streets or roadways regardless of the speed limit:

(a) Any portion of Main Street (NC Highway 73);

(b) Any portion of Julius Chambers Boulevard (NC Highway 109 North);

(c) Any portion of Wadesboro Boulevard (NC Highway 109 South); and/or

(d) Any portion of Allenton Street (NC Highway 731).

(C) A golf cart operator must maintain his or her golf cart in a safe condition at all times.

(D) The golf cart must have displayed a slow-moving vehicle emblem on the back of the cart.

(E) Golf carts without headlights and taillights may not be operated on municipal streets at any time.

(F) Golf carts may cross a road with a posted speed limit greater than 35 miles per hour. However, once the segment of road has been traversed, the golf cart is still required to travel only on or along a roadway with a speed limit of 35 miles per hour or less. Golf carts must cross in a manner that is the most direct route in order to decrease crossing distance, for example, no riding along a road or crossing at an angle. Under no circumstance is a golf cart allowed to cross a control access facility other than at bridges which cross over or under a control access facility.

(G) Golf carts shall not be operated on or alongside a public road or street with a posted speed limit greater than 35 miles per hour.

(H) Any person who operates a golf cart must be responsible for all liability associated with operation of the golf cart and must have liability insurance coverage which will cover the use of a golf cart in an amount not less than required by state law for motor vehicles operated on public highways in the state.

(I) Any person who operates a golf cart must be at least 16 years of age or older. No person may operate a golf cart unless that person is licensed to drive upon the public streets, roads, and highways of the state, and then, only in accordance with such valid driver's license. Golf cart operators must carry their driver's license on their person at all times while operating a golf cart on public roads.

(J) Any person who operates a golf cart on public streets and roads must adhere to all applicable state and local laws, regulations, and ordinances, including, but not limited to, those banning the possession and use of alcoholic beverages, and all other illegal drugs. In addition, no golf cart containing any open container of alcohol shall be operated on public roads.

(K) The operator of the golf cart shall comply with all traffic rules and regulations adopted by the state and the town which govern the operation of motor vehicles.

(L) An operator may not allow the number of people in the golf cart at any time to exceed the maximum capacity specified by the manufacturer. The operator shall not allow passengers to ride on any part of a golf cart not designed to carry passengers, such as the part of the golf cart designed to carry golf bags.

(M) In no instance shall a golf cart be operated at a speed greater than 20 miles per hour. No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions.

(N) Golf carts must be operated at the right edge of the roadway and must yield to all vehicular and pedestrian traffic.

(O) Golf carts must park in designated spaces in such a manner that multiple golf carts can utilize the space. All parking rules and limits apply. No parking on sidewalks is allowed.

(P) Golf carts must have basic equipment supplied by the manufacturer, including a vehicle identification or serial number. Such equipment must include all safety devices as installed by said manufacturer, including rear view mirror and a rear triangle reflector of the same type required by state law.

(Q) Golf carts without lights may be operated during daylight hours. Golf carts meeting the requirements set forth below may operate at any time:

(1) Golf carts having two operating headlights, one on each side of the golf cart and two operating taillights, one on each side of the rear of the cart, all four lights must be visible from a distance of 500 feet; and

(2) If a mechanical turn signal indicator is not installed, then hand signals are required for turns.

(Ord. passed 12-4-2018) Penalty, see § 74.99

§ 74.07 OPERATION ON TOWN STREETS AND ROADS WITHIN THE PLAN AREA.

It shall be unlawful to operate a golf cart on a public street or road within the plan area unless the following requirements are met.

(A) Golf cart must display a slow moving vehicle emblem on the back of the golf cart.

(B) Golf carts must display a valid town registration sticker.

(C) Golf carts must be operated in accordance with all applicable state and local laws and ordinances pertaining to the possession and use of drugs and alcoholic beverages.

(D) Golf carts shall not be operated during inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions.

(E) Golf carts shall not be operated in a negligent manner. For the purpose of this division, ***TO OPERATE IN A NEGLIGENT MANNER*** is defined as the operation of a golf cart in such a manner as to endanger any person or property, or to obstruct, hinder, or impede the lawful course of travel of any motor vehicle, or the lawful use by any pedestrian of public streets, sidewalks, paths, trails, walkways, or parks.

(F) The town may prohibit operation of golf carts on any street or highway if the Town Board of Commissioners determine that the prohibition is necessary in the interest of safety. Golf carts may not be operated on any public street or roadway in the town during one-half hour after sunset to one half hour before sunrise, and unless equipped with the proper headlights and taillights listed above.

(G) Golf carts must be parked in accordance with the laws and ordinances which apply to any parked vehicle in the town.

(H) Golf carts are strictly prohibited from traveling upon or parking on any sidewalk within the town.

(I) Golf carts are required to follow the rules and regulations of any other vehicle during special events, and are not permitted to enter special event areas unless the golf cart is listed on the special event permit and a part of the event.

(J) Golf carts must be operated at the right edge of the roadway and must yield to all vehicular and pedestrian traffic.

(Ord. passed 12-4-2018) Penalty, see § 74.99

§ 74.08 SAFETY INSPECTION.

(A) No golf cart may be operated on any street or highway in the town without first passing a safety inspection which will be conducted prior to the issuance of a town registration sticker. Furthermore, no registration sticker will be issued until the operator presents proof that the golf cart is fully insured, and the operator has a valid North Carolina driver's license or recognized valid driver's license from another state.

(B) To pass the safety inspection for the town and to obtain a special use permit, the golf cart must have the following:

(1) Headlights and taillights if the operator plans to drive after dark;

(2) Rubber or equivalent tires;

(3) Adequate steering gear, emergency or parking brake, rearview mirror, adequately fixed driver's seat;

(4) All other factory installed safety or mechanical systems, including checking for gasoline or propane leaks;

(5) Speed governor if gasoline powered; and

(6) Golf carts with "lift kits" may not be more than 22 inches high measured from floorboard of cart to the ground.

(Ord. passed 12-4-2018) Penalty, see § 74.99

§ 74.09 INSURANCE REQUIREMENTS.

Every golf cart and driver thereof shall have in full force and effect a valid insurance policy meeting the financial responsibility requirements set forth in G.S. § 20-309 of the state motor vehicle laws and other applicable state law requirements.

(Ord. passed 12-4-2018) Penalty, see § 74.99

§ 74.10 LIABILITY DISCLAIMER.

This chapter is adopted to address the interest of public safety. Golf carts are not designed or manufactured to be used on public streets, and the town in no way advocates or endorses their operation on public streets and roadways of the town, by regulating such operation, is merely trying to address obvious safety issues and adoption of this chapter is not to be relied upon as a determination that

operating on public streets and roadways is safe or advisable if done in accordance with this section. All persons who operate or ride upon golf carts on public streets do so at their own risk and peril and must be observant and attentive to the safety of themselves and others, including their passengers, other motorists, bicycles, and pedestrians. The town has no liability under any theory of liability and the town assumes no liability for permitting golf carts to be operated on public streets and roadways. Persons who operate golf carts are responsible for procuring liability insurance sufficient to cover the risk involved in using a golf cart on the public streets and roadways.

(Ord. passed 12-4-2018)

§ 74.11 ENFORCEMENT.

Any violation of the sections of this chapter shall subject the violator to those civil penalties hereinafter set forth. Unpaid civil penalties may be recovered by the town in a civil action in the nature of a debt against the violator.

(A) *Generally.* Any person violating any provision of this chapter for which no other penalty is provided shall be subject to the penalty provisions of § 74.99.

(B) *Notice to be affixed.* Whenever a member of the Police Department or other person authorized with the enforcement of the provisions of this chapter regulating parking of vehicles shall find any of those provisions are being or have been violated by the owner or operator of the vehicle, the officer or person shall notify the owner or operator of the vehicle of the violation by conspicuously attaching to the vehicle a parking violation notice or citation

(C) *Responsibility for penalty.* Upon receiving a notice or citation serving as notice of violation of the parking regulations set forth in this chapter, the owner or operator of the vehicle found in violation shall be responsible for penalties herein established.

(D) Any penalty for a parking violation that is not paid within 15 days of issuance will accrue an additional penalty of \$5 per 15 days it remains unpaid. After 15 days of issuance of a parking violation, a delinquent notice will be mailed to the registered owner of the vehicle.

(E) The maximum total combined civil penalty for a single \$20 violation shall be \$50. When the maximum is reached for either a single violation, or three or more violations are committed by the same violator, owner, or operator, he or she may be notified in writing that the town intends to pursue a civil action to collect the accrued civil penalty amount.

(Ord. passed 12-4-2018)

§ 74.99 PENALTY.

Violation of the provisions of this chapter shall constitute an infraction in accordance with G.S. Chapter 20, the maximum penalty for which shall be \$20 and such other penalties and fines as provided by law. In addition, the special use permit of the violator shall be revoked for a period of one year.
(Ord. passed 12-4-2018)

Mount Gilead - Traffic Code

TITLE IX: GENERAL REGULATIONS

Chapter

90. ABANDONED AND JUNKED VEHICLES

91. ANIMALS

92. TOWN CEMETERY

93. FIRE PREVENTION

94. NUISANCE CONTROL

95. STREETS AND SIDEWALKS

96. TREES

97. MISCELLANEOUS OFFENSES

Mount Gillead - General Regulations

CHAPTER 94: NUISANCE CONTROL

Section

- 94.01 Nuisance conditions
- 94.02 Investigation
- 94.03 Notice to abate; right to appeal; abatement
- 94.04 Appeal hearing; notice
- 94.05 Board decision
- 94.06 Abatement by town
- 94.07 Costs of abatement
- 94.08 Annual notice to chronic violators
- 94.09 Procedure not exclusive

Cross-reference:

Nuisance vehicles, see § 90.21

Statutory reference:

Abatement of public health nuisances, see G.S. § 160A-193

§ 94.01 NUISANCE CONDITIONS.

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

- (A) The growth of noxious weeds or grass to a height in excess of 12 inches;
- (B) Any accumulation of rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health;
- (C) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health;
- (D) The open storage of any abandoned ice box, refrigerator, stove, glass, building material, building rubbish, or similar items; and

(E) Any other condition detrimental to the public health.
(Ord. passed - -)

§ 94.02 INVESTIGATION.

The Town Manager, upon reasonable suspicion of the existence of any of the conditions described in § 94.01, shall investigate the affected lot and determine whether conditions exist which constitute a public nuisance as declared in § 94.01.
(Ord. passed - -)

§ 94.03 NOTICE TO ABATE; RIGHT TO APPEAL; ABATEMENT.

(A) If the Town Manager determines that a nuisance condition exists on the affected lot, the officer shall give notice to the owner of the premises to abate or remove such conditions within ten calendar days. Serving of such notice shall be by any one of the following methods:

- (1) By delivery in person or by leaving the notice at the usual place of abode of the owner with a person who is over the age of 16 years of age and a member of the family of the owner;
- (2) By the deposit of first class mail, postage prepaid, to the owner of the property at his or her last known address, as listed by the Montgomery County Revenue Department; or
- (3) By the posting of a placard in a conspicuous place on the premises on which the violation exists in conjunction with first class mail notice.

(B) Service shall be deemed sufficient if the first class mail is not returned by the post office within ten days of deposit. Service by posting shall be deemed sufficient if the first class mail is returned and notice of the pending proceedings was posted in a conspicuous place on the property affected on the day the first class mail notice was deposited.

(C) The notice shall state specifically which nuisance condition listed in § 94.01 is present on the affected parcel of land, and shall also inform the property owner that he or she may, within the ten-day period, appeal the Town Manager's decision to the Town Board of Commissioners by giving written notice to the Town Manager.

(D) An appeal made by the property owner within ten days of the service of notice shall stay the abatement of the property until the Town Board of Commissioners has made a final determination on whether a nuisance condition exists on the affected lot.

(E) If the property owner, within this ten-day period, neglects to abate the nuisance condition and fails to appeal the Town Manager's decision to the Town Board of Commissioners, then the Town Manager shall cause the condition to be removed or otherwise abated.

(F) This section shall not apply if the property owner can show that the nuisance was created solely by the actions of another.

(Ord. passed - -)

§ 94.04 APPEAL HEARING; NOTICE.

(A) Upon an appeal to the Board of Commissioners, the Town Manager shall deposit a first class mail notice, postage prepaid, and addressed to the appealing owner, specifying the time and place for the appeal to be heard by the Board.

(B) The hearing shall be heard at the next regularly scheduled Board of Commissioners meeting for which agenda items are being accepted by the Town Clerk. The owner or any party in interest shall have the right to file a written answer to the Board and to appear in person, or otherwise, and give evidence at the place and time fixed in the notice. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in such hearings.

(Ord. passed - -)

§ 94.05 BOARD DECISION.

The Board of Commissioners, after hearing all the evidence presented at the nuisance appeal hearing, may reverse the Town Manager's determination that a nuisance condition exists on the subject property. The Board, however, may affirm the Town Manager's findings and it then shall enact an ordinance specifically declaring the condition existing on the affected parcel of land to be a public nuisance which is dangerous and prejudicial to the public health or safety, and ordering the Town Manager to abate the nuisance condition. The Board decision shall be final.

(Ord. passed - -)

§ 94.06 ABATEMENT BY TOWN.

Following an appeal hearing, if the Board of Commissioners has ordered the Town Manager to abate the nuisance condition on the affected lot, the Town Manager shall deposit a first class mail notice, postage prepaid, to the property owner as reported by the Montgomery County Revenue Department, that he or she must abate the nuisance within ten days of the deposit. If the property owner, within this ten-day period, neglects to abate the public nuisance condition, then the Town Manager shall cause the condition to be removed or otherwise remedied by having employees of the town, or subcontractors

retained by the town, go upon the premises and remove or otherwise abate the nuisance under the supervision of the Town Manager. The expense of remedying the abatement shall be paid by the property owner. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred, and such lien shall have the same priority and be collected as unpaid ad valorem taxes. In addition thereto, any such unpaid expenses shall be a lien on other property owned by such property owner located within the town's corporate limits, or within one mile of the town's corporate limits, except for such property owner's primary residence, and such lien shall have the same priority as a money judgment lien.
(Ord. passed - -)

§ 94.07 COSTS OF ABATEMENT.

(A) The actual cost and associated expenses including advertising, certified mail, and attorney's fees incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the Tax Collector to mail a statement of such charges to the owner or other person in possession of the premises with instructions that such charges are due and payable within 30 days from the receipt thereof.

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

§ 94.08 ANNUAL NOTICE TO CHRONIC VIOLATORS.

The notice given to violators required in § 94.03 is modified as set forth herein for chronic violators of the nuisance condition for tall noxious weeds or grass enumerated in § 94.01(A). A chronic violator is a person who owns property whereupon, in the previous calendar year, the town gave notice of violation at least three times for the nuisance condition of tall noxious weeds or grass. The town may notify a chronic violator of this chapter that, if the violator's property is found to be in violation of § 94.01(A) in the subsequent and consecutive year(s), the town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the land or premises where the nuisance occurred, and shall have the priority and be collected as unpaid ad valorem taxes, unless paid by the property owner. In addition thereto, any such unpaid expenses shall be a lien on other property owned by such property owner located within the town's corporate limits, or within one mile of the town's corporate limits, except for such property owner's primary residence, and such lien shall have the same priority as a money judgment lien. The annual notice shall be sent by certified or registered mail.
(Ord. passed - -)

§ 94.09 PROCEDURE NOT EXCLUSIVE.

The procedures set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this chapter shall not prevent the town from proceeding in a criminal action against any person, firm, or corporation violating the provisions of this chapter as provided in G.S. § 14-4.

(Ord. passed - -)

[Text resumes on page 37]

CHAPTER 91: ANIMALS

Section

General Provisions

- 91.01 Keeping livestock and poultry
- 91.02 Cruelty to animals

Dogs

- 91.15 Definitions
- 91.16 Dogs as nuisances
- 91.17 Notice; abatement; impoundment
- 91.18 Rabies control

Wild and Dangerous Animals

- 91.30 Definitions
 - 91.31 Unlawful possession of inherently dangerous exotic mammals or inherently dangerous reptiles
 - 91.32 Exceptions
 - 91.33 Impoundment; disposition of impounded animals
 - 91.34 Breeding or allowing reproduction prohibited
-
- 91.99 Penalty

Cross-reference:

Removal of dead animals, see § 50.09

GENERAL PROVISIONS

§ 91.01 KEEPING LIVESTOCK AND POULTRY.

(A) *Hogs or swine prohibited; exceptions.* No hogs or swine are permitted to be in any zone within the corporate limits, except in an industrial district for manufacturing purposes and/or in connection with a fair or other special event conducted on a temporary basis.

(B) *Housing livestock.*

(1) It shall be unlawful for any person to house or stable any horse, mule, pony, cow, sheep, goat, or other livestock, including poultry, in the corporate limits of the town within 175 feet of any dwelling, school, church, restaurant, grocery store, drugstore, or other retail establishment, or within 100 feet of a septic tank or private water supply intended for human consumption. In addition, it shall also be unlawful to keep or maintain such animals by means of tether, fence, or other type enclosure within 20 feet of the property line of an adjoining lot.

(2) Any tether, fence, stable, or other type enclosure structure that does not conform to the above provisions of division (B)(1) and such nonconformities exist prior to the adoption of this section, shall be considered a nonconforming use as defined in the zoning ordinance.

(3) Within the town's corporate limits, no more than one such animal may be maintained on a lot containing less than 20,000 square feet in area. Additional animals may be maintained on the basis of one animal for each additional 20,000 square feet provided.

(C) *Structures for livestock.* Best management practices shall be applied in using and maintaining structures for livestock, including stables, so as to eliminate or minimize nuisances and adverse impacts to the maximum extent possible.

(D) *Keeping fowl/poultry.* All yards, premises, sheds, coops, and the like, occupied by chickens or other fowl shall be deemed a nuisance if not cleaned regularly and kept in a sanitary condition at all times.

(E) *Registration required of existing livestock.* Livestock that are within the corporate limits of the town on the date of adoption of this section and do not meet all requirements of this section (i.e. number of livestock allowed per lot area or the proximity of a barn/stable to a dwelling, school, church, restaurant, grocery store, drugstore, retail establishment, septic tank, or private water supply) shall be allowed to remain in the town for as long as the animals live provided all animals are registered with the town within one year of adoption of this section. Registration of existing livestock animals will require the owner to state the age, sex, and breed of all animals as well as the lot square footage or acreage of the land that the animals are kept on. Any offspring of the existing livestock shall be removed from the corporate limits of town following weaning from its mother.

(Ord. 2007-06-01, passed 6-12-2007) Penalty, see § 91.99

§ 91.02 CRUELTY TO ANIMALS.

It shall be unlawful to mistreat any animal by causing or permitting that animal unjustifiable physical pain, suffering, or death, either by act or omission or neglect. Lawful taking of game animals are exempted from the provisions of this section.

(Ord. 2007-06-01, passed 6-12-2007) Penalty, see § 91.99

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ABANDONED AND JUNKED VEHICLES**
- 91. ANIMALS**
- 92. TOWN CEMETERY**
- 93. FIRE PREVENTION**
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CHAPTER 90: ABANDONED AND JUNKED VEHICLES

Section

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GENERAL PROVISIONS

§ 90.01 AUTHORITY AND PURPOSE.

(A) The Board of Commissioners is authorized by G.S. §§ 160A-193, 160A-303, 160A-303.2 to regulate, restrain, or prohibit abandoned, junked, and nuisance motor vehicles on public and private property within the town's ordinance making jurisdiction.

(B) The Board finds it necessary and desirable to promote or enhance:

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- (1) The quality of urban attractiveness and aesthetic appearance of the town;
- (2) The protection of property values throughout the town;
- (3) The preservation of the livability and attractiveness of neighborhoods;
- (4) The promotion of tourism, conventions, and other opportunities for economic development for the town;
- (5) The attractiveness of the town's thoroughfares and commercial roads which present the primary, public visibility to visitors and passersby of the town; and
- (6) The promotion of the comfort, happiness, and emotional stability of occupants of property in the vicinity of junked motor vehicles.

§ 90.02 DEFINITIONS.

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

ABANDONED MOTOR VEHICLE. As authorized and defined in G.S. § 160A-303, an **ABANDONED MOTOR VEHICLE** is one that:

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

AUTHORIZING OFFICIAL. The supervisory employee of the Police Department or the town respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

JUNKED MOTOR VEHICLE. As authorized and defined in G.S. § 160A-303.2 the term **JUNKED MOTOR VEHICLE** means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked;

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

(3) Is more than five years old and appears to be worth less than \$100.

MOTOR VEHICLE. All machines designed or intended to travel over land by self propulsion or while attached to any self-propelled vehicle.

NUISANCE VEHICLE. A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful. A motor vehicle shall be deemed to be a nuisance or to have been abandoned for the purposes of this chapter in the following circumstances:

(1) It is left unattended upon a street or highway for longer than 12 hours in violation of a law or ordinance prohibiting parking;

(2) It is left unaccompanied on property owned or operated by the town for a period longer than 24 hours;

(3) It is left unaccompanied on any public street or highway for a period longer than seven days;

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

(5) It is a breeding ground or harbor for mosquitoes, or other insects, rats, or other pests;

(6) It is a point of heavy growth of weeds or other noxious vegetation over eight inches in height;

(7) It is a point of collection of pools or ponds of water;

(8) It is a point of concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor;

(9) It is one which has areas of confinement with cannot be operated from the inside, such as trucks, hoods, and the like;

(10) It is so situated or located that there is a danger of it falling or turning over;

(11) It is one which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;

(12) It is any other vehicle specifically declared a health and safety hazard and a public nuisance by the Board of Commissioners; and/or

(13) It is so offensive to the sight as to damage the community, neighborhood, or area of appearance upon a finding by the enforcement officer/Building Inspector that such aesthetic regulation is necessary and desirable for the protection of private property values, promotion of tourism, indirect protection of health and safety, preservation of character and integrity of the community, or promotion of the comfort, happiness, and emotional stability of area residents.

§ 90.03 APPLICATION OF CHAPTER.

Nothing in this chapter shall apply to any vehicle:

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

(B) Which is in an enclosed building;

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

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

§ 90.04 ENFORCEMENT BY POLICE DEPARTMENT AND TOWN MANAGER.

(A) The Police Department and Town Manager shall be responsible for the administration and enforcement of this chapter. The Police Department shall be responsible for administering the removal and disposition of vehicles to be abandoned on the public streets and highways within the town, and on property owned by the town. The Town Manager shall be responsible for administering the removal and disposition of abandoned, nuisance, or junked motor vehicles located on private property.

(B) The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles, and junked motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

§ 90.05 PROTECTION AGAINST LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance, or junked motor vehicle, for disposing of such vehicle as provided in this chapter.

REMOVAL AND DISPOSITION OF VEHICLES

§ 90.20 ABANDONED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is herein defined.

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

Penalty, see § 10.99

§ 90.21 NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

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

(B) Upon investigation, the Town Manager may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

Penalty, see § 10.99

§ 90.22 JUNKED VEHICLE REGULATED; REMOVAL AUTHORIZED.

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

(B) It shall be unlawful to have more than one junked vehicle, as defined herein, on the premises of public or private property. Single, permitted junked vehicles must strictly comply with the location and concealment requirements of this section.

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

(D) Subject to the provisions of § 90.23, upon investigation, the Town Manager may order the removal of a junked motor vehicle as defined in this chapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood, or area appearance. The following among other relevant factors may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of each community; and
- (5) Promotion of the comfort, happiness, and emotional stability of area residents.

Penalty, see § 10.99

§ 90.23 PERMITTED CONCEALMENT OR ENCLOSURE OF JUNKED MOTOR VEHICLE.

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

(B) The Town Manager has the authority to determine whether any junked motor vehicle is adequately covered as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate. The covering or enclosure must be compatible with the objectives stated in this chapter.

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

Penalty, see § 10.99

§ 90.24 CONDITIONS FOR REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

As a general policy, the town will not remove a vehicle from private property if the owner, occupant, or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant, or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Town Manager. The town may require any person requesting the removal of an abandoned, nuisance, or junked vehicle from private property to indemnify the town against any loss, expense, or liability incurred because of the removal, storage, or sale thereof.

Penalty, see § 10.99

§ 90.25 PRE-TOWING NOTICE REQUIREMENTS.

(A) Except as set forth in § 90.26 below, an abandoned, nuisance, or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or junked vehicle, if the names and mailing addresses of the registered owner or person entitled to possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the city on a specified date (no sooner than seven days after the notice is affixed), unless the vehicle is moved by the owner or legal possessor prior to that time.

(B) With respect to abandoned vehicles on private property, nuisance vehicles and junked vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance, or junked, such appeal shall be made to the Town Manager in writing, heard at the next regular meeting of the Board of Commissioners and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

Penalty, see § 10.99

§ 90.26 EXCEPTIONS TO PRIOR NOTICE REQUIREMENTS.

(A) The requirement that notice be given prior to the removal of an abandoned, nuisance, or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records.

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(B) Circumstances justifying the removal of vehicles without prior notice include:

(1) For vehicles left on public streets and highways, the Town Manager hereby determines that immediate removal of such vehicles may be warranted when they are:

- (a) Obstructing traffic;
- (b) Parked in violation of a regulation prohibiting or obstructing traffic;
- (c) Parked in a no-stopping or standing zone;
- (d) Parked in loading zones;
- (e) Parked in bus zones; or
- (f) Parked in violation of temporary parking restrictions imposed under code sections.

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

Penalty, see § 10.99

§ 90.27 POST-TOWING NOTICE REQUIREMENTS.

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

- (1) The description of the vehicle removed;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

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

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

(D) Whenever an abandoned, nuisance, or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing town official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information set forth in divisions (A)(1) through (A)(5) above. Penalty, see § 10.99

§ 90.28 HEARING.

After the removal of an abandoned, nuisance, or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed with the County Magistrate designated by the Chief District Court Judge to receive such hearing requests, the magistrate will set the hearing within 72 hours of the receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11, as amended. Penalty, see § 10.99

§ 90.29 REDEMPTION OF VEHICLE; PROCEDURES.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of the vehicle, the owner shall not allow or engage in further violations of this chapter. Penalty, see § 10.99

§ 90.30 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

Any abandoned, nuisance, or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with G.S. Chapter 44A, Article 1. Penalty, see § 10.99

§ 90.31 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this code unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

Penalty, see § 10.99

DOGS**§ 91.15 DEFINITIONS.**

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

ANIMAL CONTROL OFFICER. The County Animal Control Officer, the Town Animal Control Officer, and the Chief of Police (or designee) for the town.

DANGEROUS OR VICIOUS DOG. Includes any of all of the following, except police dogs or guard dogs acting under the supervision of a police officer or certified trained dog handler, or seeing-eye dogs:

(1) Any dog which bites, inflicts injury, assaults, or otherwise attacks a human being or a domestic animal without provocation; or

(2) Any dog which, without provocation, approaches in a threatening or terrorizing manner, any person or domestic animal upon the streets, sidewalks, or any public grounds or places, whether restrained or not by a leash; or

(3) Any dog which is trained to attack or cause injury or to otherwise endanger the safety of human beings or domestic animals, or any dog which has a history of attacking or propensity (intense natural tendency) to attack people or domestic animals without provocation.

DESTRUCTIVE DOG. Any dog which habitually performs in the following manner:

(1) Destroys the personal or real property of others, including, but not limited to, lawn furniture, or other objects stored outside, or shrubs, flowers, grass, and other plant growth, or ;

(2) Habitually turns over garbage receptacles or recycle bins, or strews trash.

HABITUAL. The dog or dogs have performed such acts on two or more occasions.

PROPER ENCLOSURE. A building or other structure from which a dog cannot escape, or an outside area enclosed by an underground fence or a fence at least six feet in height secured to the ground in such a manner so that a dog cannot escape.

PROPER RESTRAINTS. Confined on the owner's property by leash, cord, or chain from which a dog cannot escape or if off the owner's property, on a leash, cord, or chain and under the immediate and effective control of the owner or other responsible person.

STRAY DOG. Any dog off the owner's premises and not under proper restraints, without a collar or harness to which is attached a name plate bearing the owner's name, address, and phone number. In addition, any female dog in heat not confined in a proper enclosure.
(Ord. 2007-06-01, passed 6-12-2007; Ord. 2011-09-01, passed 11-8-2011)

§ 91.16 DOGS AS NUISANCES.

(A) Stray dogs within the corporate limits of the town are hereby declared to be a public nuisance and shall be abated as provided in this subchapter.

(B) The keeping or maintenance of any dog or dogs without a collar to which is attached a name plate bearing the owner's name, address and phone number is hereby declared to be a public nuisance and shall be abated as provided in this subchapter.

(C) The keeping or maintenance outside a proper enclosure or under proper restraints of any dog or dogs having dangerous or destructive propensities is hereby declared to be a public nuisance and shall be abated as provided in this subchapter.

(D) The keeping or maintenance outside a proper enclosure or under proper restraints of any dog or dogs considered by definition to be "dangerous," "vicious," or "destructive" is hereby declared to be a public nuisance and shall be abated as provided in this subchapter.

(E) The keeping or maintenance of any dog or dogs which by prolonged and habitual barking, howling, or whining cause serious annoyance to neighboring residents and interferes with the reasonable use and enjoyment of the premises occupied by the residents or with the reasonable use and enjoyment of the public street, sidewalks, or other public areas, is hereby declared to be a public nuisance, and shall be abated as provided in this subchapter.

(F) The keeping by any person of more than eight dogs is declared to be a public nuisance.
(Ord. 2007-06-01, passed 6-12-2007; Ord. 2011-09-01, passed 11-8-2011) Penalty, see § 91.99

§ 91.17 NOTICE; ABATEMENT; IMPOUNDMENT.

(A) *Discovery, complaint, and notice.* Upon discovery of any public nuisance as defined in this subchapter by the Animal Control Officer or upon receipt of a written, detailed, and signed complaint being made to the Animal Control Officer by any resident or residents that a public nuisance as described in § 91.16 above exists, the Animal Control Officer shall cause the owner or keeper of the dog or dogs in question to be notified that a complaint has been filed and shall cause the situation complained about to be investigated and a report and findings thereon to be reduced to writing by the investigating officer. A police report documenting the "dangerous," "vicious," or "destructive" nature of any dog or dogs shall be considered evidence and shall be used to document and/or support the findings of the Animal Control Officer.

(B) *Abatement.* If the written findings of the investigating officer indicate that a nuisance exists and the complaint is justified, the Animal Control Officer shall cause the owner or keeper of the dog or dogs in question to be so notified in writing and ordered to abate such nuisance by destruction or removal of the dog or dogs, or by construction of a proper enclosure or proper restraint, as the case may necessitate. In the case of stray dogs or in the event the owner or keeper of the dog or dogs is unknown and cannot be ascertained, the dog shall immediately be impounded and the notice and order, along with a general description of the dog or dogs shall be posted at the Town Hall.

(C) *Impoundment upon failure to abate, destruction.* If any person being the owner or keeper of a dog or dogs hereinabove described, shall fail or refuse to abate the nuisance upon order of the Animal Control Officer within the specified time, the Animal Control Officer shall cause the dog or dogs in question to be apprehended and impounded by the Animal Control Officer at the Montgomery County Facility, and the owner notified in writing of the impoundment. If the owner or keeper shall so request, the dog or dogs shall be released to him or her upon his or her execution of a written agreement to comply with the abatement order. If no request and execution of an agreement to comply with the abatement order is made by the owner or keeper within three days after written notice has been delivered, the Animal Control Officer shall cause the dog or dogs in question to be destroyed. In the case of stray dogs, or a dog or dogs, the owner of which is unknown, the Animal Control Officer shall cause the impoundment to be carried out immediately and shall cause notice of impoundment, along with a general description of the dog or dogs in questions to be posted at the Town Hall. If no request is made for release of the dog, and execution of agreement to comply with the order of abatement is made within three days, the Animal Control Officer shall cause the dog or dogs in question to be destroyed. (Ord. 2007-06-01, passed 6-12-2007; Ord. 2011-09-01, passed 11-8-2011)

§ 91.18 RABIES CONTROL.

Every dog that bites a human being shall be delivered, within eight hours, by the owner to the County Animal Shelter or to a licensed veterinary hospital where it shall be confined for observation for not less than ten days at the owner's expense. Wounds inflicted by dogs on human beings shall be reported immediately to the Health Department by the person who has been bitten by the dog, or in the case of a child, by his or her parent or guardian, as specified in G.S. § 130A-198. (Ord. 2007-06-01, passed 6-12-2007; Ord. 2011-09-01, passed 11-8-2011) Penalty, see § 91.99

WILD AND DANGEROUS ANIMALS

§ 91.30 DEFINITIONS.

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

EXOTIC ANIMAL.

- (1) Any animal which:
 - (a) Is not native or a non-indigenous species to this state [other than servids (deer)];
 - (b) Does not have an established wild population in this state; or
 - (c) Is not regulated by the state wildlife commission.
- (2) All mammals designated by the Centers for Disease Control and Prevention, Department of Agriculture or other national or state public health protection agencies as embargoed or prohibited under legal protection orders.

HARBORER OF INHERENTLY DANGEROUS EXOTIC MAMMAL OR INHERENTLY DANGEROUS REPTILE. Any person, regardless of ownership, who allows an inherently dangerous exotic mammal or inherently dangerous reptile to remain, lodge, or be fed or to be given shelter or refuge within the person's home, store, yard, enclosure, outbuilding, abandoned vehicle or building, place of business, or any other premises in which the person resides or over which the person has control.

INHERENTLY DANGEROUS EXOTIC MAMMAL. Any live member of the Canidae, Felidae, or Ursidae families, including hybrids thereof, which, due to their inherent nature, may be considered dangerous to humans and which include:

- (1) *Canidae*. Any member of the dog (Canid) family not customarily domesticated by humans or any hybrids of such Canidae, including wolf hybrids which are a cross between a wolf and a domestic dog, but not including domestic dogs (*Canis familiaris*);
- (2) *Felidae*. Any member of the cat family weighing over 15 pounds not customarily domesticated by man, or any hybrids of such Felidae, but not including domestic cats (*Felis catus*);
- (3) *Ursidae*. Any member of the bear family, or hybrids of such Ursidae;
- (4) *Primates*. Any member of the order primates; and
- (5) *Elephants*.

INHERENTLY DANGEROUS REPTILE. Any member of the Reptilia class which:

- (1) Is venomous. A venomous reptile shall include all members of the families Helodermidae (gila monsters and Mexican beaded lizards), Viperidae vipers, Crotalidae (pit vipers), Hydrophilidae (sea snakes), and Elapidae (cobras, coral snakes, and their allies), as well as any rear fanged snakes of the

family Colubridae that are known to be dangerous to humans, including but not limited to Dispholidus typus (boomslang), Thebtornis kirtlandii (twig snake), Rhabdophis (deelbacks);

(2) Is non-venomous. A non-venomous reptile shall include all members of the families Boidae (constrictors, pythons, anaconda, and boas) snakes that are known to be dangerous to humans; and

(3) Is a member of the order Crocrodilia (crocodiles, alligators, and caiman).

WILD AND DANGEROUS ANIMALS. Any animals of the cat, bear, and wolf species and non-human primates which are normally born and live in a wild habitat, even though such species may be raised and kept in captivity.

(Ord. 2006-10, passed 4-25-2006; Ord. 2007-06-01, passed 6-12-2007; Ord. 2011-09-01, passed 11-8-2011)

§ 91.31 UNLAWFUL POSSESSION OF INHERENTLY DANGEROUS EXOTIC MAMMALS OR INHERENTLY DANGEROUS REPTILES.

At no time may any person possess, sell or harbor an inherently dangerous exotic mammal or inherently dangerous reptile within the town. Any exotic animal that is in the possession of, or harbored, at the time that Ordinance No. 2011-09-01 is adopted will be “grandfathered”, and excluded from the regulations/ requirements of this subchapter, however, to be properly “grandfathered”, any person who possesses or harbors an inherently dangerous exotic mammal or reptile shall immediately register these animals with the county upon adoption of Ordinance No. 2011-09-01 (registration shall be within 12 days of the day the ordinance is adopted). All animals “grandfathered” by this section shall be permanently identified with an imbedded microchip; owners of “grandfathered” animals shall have six months to embed a microchip in the animal. “Grandfathering” only covers the existing registered animals until their death.

(Ord. 2006-10, passed 4-25-2006; Ord. 2007-06-01, passed 6-12-2007; Ord. 2011-09-01, passed 11-8-2011) Penalty, see § 91.99

§ 91.32 EXCEPTIONS.

This subchapter does not apply to the following:

(A) Veterinary clinics in possession of such animals or reptiles for treatment or rehabilitation purposes;

(B) Nonresident circuses for no longer than one seven-day period, per each separate location where such circus is held within the county per calendar year;

(C) Nonresident carnivals or traveling fairs for no longer than one seven-day period, per each separate location where such carnival or traveling fair is held within the county, per calendar year;

(D) Persons temporarily transporting such mammals or reptiles through the county, provided that such transport time shall not be more than 24 hours; and/or

(E) No reference or regulations in this subchapter applies to exotic mammals under the control of the North Carolina Zoological Park.

(Ord. 2006-10, passed 4-25-2006; Ord. 2007-06-01, passed 6-12-2007; Ord. 2011-09-01, passed 11-8-2011) Penalty, see § 91.99

§ 91.33 IMPOUNDMENT; DISPOSITION OF IMPOUNDED ANIMALS.

(A) An inherently dangerous exotic mammal or inherently dangerous reptile which is kept by any person in contravention of § 91.31 pertaining to possession of inherently dangerous exotic animals may be taken up and impounded by the Animal Control Officer or Police Chief's representative for the protection of the animals and/or the public. Whenever possible, the Animal Control Officer or Police Chief's representative shall take up and impound the animal in the presence of its owner or harborer; however, if such is not practicable, the Animal Control Officer or Police Chief's representative may impound such animal consistent with this section.

(B) If an animal is impounded pursuant to this section, the owner or harborer of the animal shall be notified by the Animal Control Officer in person or by certified mail.

(C) Any animal impounded pursuant to this section will be held ten days for the owner to claim pursuant to subsection (D) of this section; however, if the animal cannot be taken up safely by the Animal Control Officer or Police Chief's representative or if proper and safe housing cannot be found for the animal, the Animal Control Officer or Police Chief's representative can immediately destroy the animal.

(D) The owner or harborer of the animal can reclaim the animal if the person can satisfy the Chief Animal Control Officer or Chief of Police, that a safe transfer of the animal to an appropriate location outside of the county has been arranged.

(E) If no owner or harborer can be located or will claim the animal within ten days after impoundment, the Town Manager or representative may place the animal with an accredited zoological park or accredited sanctuary (accredited by the American Zoo and Aquarium Association).

(F) All cost of impoundment, care, damages to property, and/or euthanasia of the animal will be charged to its owner or harborer regardless of whether the animal is claimed by or returned to the owner or harborer. If the animal is reclaimed, such costs shall be paid in full prior to the owner or harborer reclaiming the animal pursuant to division (D) of this section.

(G) An animal escape/recapture plan must be filed with the town, which shall include a recovery plan (these plans must be filed with the town and the Animal Control Officer within six months of the

day Ordinance No. 2011-09-01 is adopted). The owner of the animal shall be liable for all costs associated with the recapture of the animal.

(Ord. 2006-10, passed 4-25-2006; Ord. 2007-06-01, passed 6-12-2007; Ord. 2011-09-01, passed 11-8-2011) Penalty, see § 91.99

§ 91.34 BREEDING OR ALLOWING REPRODUCTION PROHIBITED.

Breeding or allowing the reproduction of wild and dangerous animals as defined in this subchapter is prohibited.

(Ord. 2006-10, passed 4-25-2006; Ord. 2007-06-01, passed 6-12-2007; Ord. 2011-09-01, passed 11-8-2011) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) *General penalty.* Unless otherwise specifically provided, any person who shall violate any provision of this chapter shall be punished as set forth in § 10.99 of this code.

(B) *Dogs.* In addition, enforcement of §§ 91.15 through 91.18 may be by injunction, restraining order, or order of abatement in a court of competent jurisdiction, as provided by G.S. § 160A-175.

(C) *Wild animals.* Any person who is found guilty of a violation of §§ 91.30 through 91.34 shall be deemed guilty of a Class 3 misdemeanor and punished as provided in G.S. § 14-4. Every day that the animal remains housed or harbored shall constitute a new offense.

(Ord. 2006-10, passed 4-25-2006; Ord. 2007-06-01, passed 6-12-2007; Ord. 2011-09-01, passed 11-8-2011)

CHAPTER 92: TOWN CEMETERY

Section

- 92.01 General regulations
- 92.02 Burial restrictions
- 92.03 Family monument
- 92.04 Landscaping
- 92.05 Structures
- 92.06 Transfer of lots
- 92.07 Conduct
- 92.08 Vehicles
- 92.09 Depositing rubbish or unclean substances

§ 92.01 GENERAL REGULATIONS.

All lots within the cemetery, and within any extension of said cemetery at any time hereafter made, whether owned by the town or by any other person or persons, shall be subject to be regulated and controlled by the provisions of this chapter; and in all deeds of conveyance by the town to any person or persons for any lot, the following provisions shall be included therein as a covenant running with the land. "This conveyance is made subject to an ordinance adopting rules and regulations for the control of the Town Cemetery and providing penalties in relation thereto duly of record upon the minutes of the proceedings of the Board of Commissioners of the town, and the grantee herein, his or her heirs and assigns, agree that upon the breach of any of its provisions, the title to said property shall revert to the town."

Penalty, see § 10.99

§ 92.02 BURIAL RESTRICTIONS.

No person shall bury or cause to be buried any dead human body at any place within the town other than the town cemetery, a church cemetery, or in a cemetery licensed by the State Burial Association Commissioner.

Penalty, see § 10.99

§ 92.03 FAMILY MONUMENT.

Only one central or family monument shall be allowed on a family lot. Markers shall be laid flush with the ground and shall not exceed two feet in length and one foot in width, and shall be placed at the end of the grave farthest from the monuments. No coping fencing, hedging, grave mounds, borders or curb of any kind shall be allowed on any burial lot.

Penalty, see § 10.99

§ 92.04 LANDSCAPING.

All grading, landscaping, and improvement of every kind shall be made or done by the town only.

Penalty, see § 10.99

§ 92.05 STRUCTURES.

No mausoleum, tomb, building, or other structure of any kind shall be erected on any lot within said cemetery, or within any extension of said cemetery; provided, however, mausoleums and tombs may be constructed on lots which may be designated on the plat and plan of said cemetery from time to time by the Board of Commissioners as lots to be used exclusively for mausoleums and tombs. Should any mausoleum, monument, or tomb at any time become unsafe, unsightly, or in need of repair or re-setting, the Town Manager shall so notify the owner of said lot, or any person having an interest in said lot, and shall request such person to make needed repairs under his or her supervision. If such person shall fail to make such repairs within 30 days thereafter, the Board of Commissioners may order such repairs to be made, or remove the same from said lot as said Board may elect.

Penalty, see § 10.99

§ 92.06 TRANSFER OF LOTS.

No person who shall purchase any lot in said cemetery from the town shall thereafter convey or alien the same to any other person except upon the written permission of the Board of Commissioners, nor in any event for a greater consideration than that paid for the same lot by the grantor.

Penalty, see § 10.99

§ 92.07 CONDUCT.

No person shall disturb the quiet, repose, and good order of the cemetery, nor shall any person deface, remove, disturb, injure, or destroy any tree, plant, or shrub therein except in the manner herein provided; trespassing within said cemetery is hereby prohibited, and no person shall commit any immoral act therein under penalty of the law herein prescribed.

Penalty, see § 10.99

§ 92.08 VEHICLES.

Vehicles shall be driven only upon the roadways within said cemetery and at a rate of speed not in excess of 15 miles per hour. No vehicles shall enter said cemetery except for the purpose of attending funerals, visiting graves, or other lawful mission.

Penalty, see § 10.99

§ 92.09 DEPOSITING RUBBISH OR UNCLEAN SUBSTANCES.

No person shall deposit any rubbish, filth, waste, or other unclean or unsightly substance in said cemetery, and all materials carried within said cemetery and not used in the erection of monuments, markers, or other lawful structures authorized herein, shall be promptly removed therefrom by the owner of the lot upon which such monument, marker, or structure shall be located.

Penalty, see § 10.99

CHAPTER 93: FIRE PREVENTION

Section

- 93.01 Fire Prevention Code adopted
- 93.02 Fire district
- 93.03 Interfering with firefighters or equipment
- 93.04 Tampering with fire hydrants

Cross-reference:

Burning garbage or refuse, see § 50.03

Fire bombs prohibited; enforcement, see § 132.03

Fire Department, see §§ 32.15 through 32.18

Statutory reference:

Approach of emergency vehicles; driving over fire hose; obstructing fire apparatus, see G.S. § 20-57

Municipal fire protection generally, see G.S. §§ 160A-291 et seq.

§ 93.01 FIRE PREVENTION CODE ADOPTED.

The most current edition of the State Fire Prevention Code, as established pursuant to G.S. § 143-138 and as amended from time to time, is adopted by reference into this code of ordinances as fully as though set forth herein as the fire prevention code for the town. An official copy of the code shall be kept on file in the office of the Town Manager.

Penalty, see § 10.99

§ 93.02 FIRE DISTRICT.

The following described territory shall be known as the fire district of the town: the business district of the town.

Statutory reference:

Establishment of fire limits, see G.S. § 160A-435

Restrictions within fire limits, see G.S. § 160A-436

§ 93.03 INTERFERING WITH FIREFIGHTERS OR EQUIPMENT.

(A) No person shall interfere with a firefighter in the discharge of his or her duty or hinder him or her in the performance of his or her duty, nor shall any person other than members of the Fire

Department loiter about any fire station or change, handle, or meddle in any manner with any fire engine or any other fire apparatus.

(B) No person other than a bona fide member of the Fire Department shall mount any fire engine or apparatus before it leaves the station, while on its way to or from a fire, or at any other time, unless by permission of the driver or officer in command of the engine or other apparatus.

(C) No person shall interfere carelessly or willfully with the fire alarm system or injure the poles, wires, boxes, or other apparatus connected therewith.

Penalty, see § 10.99

Cross-reference:

Interfering with Fire Department by congregating on streets near a fire, see § 32.18

§ 93.04 TAMPERING WITH FIRE HYDRANTS.

It shall be unlawful for any person, firm, establishment, or corporation to injure, deface, open the valves of, tamper with, or otherwise use the fire hydrants of the town, except the Fire Department personnel while engaged in the official performance of their firefighting duties or authorized Public Works personnel while engaged in their duties.

Penalty, see § 10.99

CHAPTER 94: NUISANCES

Section

General Provisions

- 94.01 Unnecessary noise prohibited
- 94.02 Posting printed matter on public or private property
- 94.03 Broken windows to be repaired
- 94.04 Obstruction in streams and drainage ditches

Weeds

- 94.15 Accumulation of weeds declared a nuisance
- 94.16 Complaint and investigation
- 94.17 Notice to abate
- 94.18 Hearing
- 94.19 Failure to abate
- 94.20 Liability for cost of removal
- 94.21 Lien for nonpayment of charges
- 94.22 Additional remedies available

- 94.99 Penalty

Cross-reference:

Nuisance vehicles, see § 90.21

Statutory reference:

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

GENERAL PROVISIONS

§ 94.01 UNNECESSARY NOISE PROHIBITED.

(A) Prohibition.

(1) *Generally.* It shall be unlawful for any person, firm, or corporation to create or assist in creating any unreasonably loud, disturbing, and unnecessary noise in town. Noise of such character, intensity, and duration as to be detrimental to the public health, welfare, and peace is prohibited.

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(2) *Amplifiers.* The use of mechanical loud speakers on amplifiers or trucks, airplanes, or other vehicles, or by any other means for advertising or other commercial purposes is prohibited.

(B) *Definitions.*

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

DISTURBING. Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.

UNNECESSARY. Any excessive or unusually loud sound or any sound which is of such character, intensity, and duration as to disturb the peace and quiet of any neighborhood or which disturbs, injures, or endangers the comfort, repose, health, peace, or safety of any person, and being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his or her conduct.

UNREASONABLY LOUD. Noise which is substantially incompatible with the time and location where created to the extent that it creates interference to the peace and good order of the area.

(2) In determining whether a noise is unreasonably loud, disturbing, and unnecessary, the following factors incident to such noise are to be considered:

- (a) Time of day;
- (b) Proximity to residential structures;
- (c) Whether the noise is or has been enhanced in volume and intensity;
- (d) The nature and zoning of the area;
- (e) Whether the noise is related to the normal operation of a business or activity or is the result of some use for individual purposes; and
- (f) Whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

(C) *Enumerated acts.* The following acts, in addition to the prohibitions set forth in division (A) of this section, and among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this list shall not be deemed to be exclusive:

- (1) The sounding of any horn, whistle, or signal device on any motorized or other vehicle, except as a danger signal or as required by law, so as to create any unreasonable, loud, or harsh sound, or the sounding of such device for an unnecessary and unreasonable period of time;

(2) The playing of any radios, record players, television sets, or sound-producing equipment in such a manner or with such volume that it may be heard from a distance of 50 feet, particularly but not limited to the hours between 10:00 p.m. and 7:00 a.m., so as to annoy or disturb the quiet, comfort, or repose of any person on a street or in a public area, business, dwelling, motel, hotel, or other type of residence;

(3) 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;

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

(5) The blowing of any steam whistle attached to any stationary boiler, except to warn of danger;

(6) The discharge into the open of any exhaust by an engine, except through a muffler or other device which will effectively prevent loud or explosive noise therefrom;

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

(8) The creation of any excessive noise on any street adjacent to any school, institute of learning, court, or church while the institutions are in session, or within 150 feet of any hospital, which unnecessarily interferes with the work of the institutions, provided that conspicuous signs are displayed in the streets indicating that the area is a school, court, church, or hospital area;

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

(10) The erection (including excavation), demolition, alteration, or repair of any building in a residential or business district other than between sunrise and sunset, except in the interest of public safety and then only with a permit from the appropriate town official, which permit maybe renewed for a period of three days or less while the emergency continues;

(11) Yelling, shouting, or loud talking by persons after the hour of 10:00 p.m. and before 7:00 a.m. in close proximity to dwellings, in a manner likely to disturb the rest and repose of the residents thereof;

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

(13) The use of mechanical loud speakers or amplifiers on trucks, airplanes, or other vehicles or by any other means for advertising or other commercial purposes is prohibited;
Penalty, see § 94.99

§ 94.02 POSTING PRINTED MATTER ON PUBLIC OR PRIVATE PROPERTY.

(A) *Posting of printed matter.* It shall be unlawful for any person, firm, or corporation to post, nail, stick, or otherwise affix bills, posters, advertisements, notices, or any other printed or graphic matter upon public property in the town. This section shall not apply to notices, signs, or advertisements required to be posted by law; signs or plates on residential premises giving the name or address of the occupant; mail boxes or newspaper tubes; municipal, county, state, and federal traffic signs, historical markers, monuments, or signs erected by public authority; temporary displays as a part of customary holiday decorations; and signs denoting the location of underground utilities.

(B) *Posting on private property.* It shall be unlawful for any person, firm, or corporation to nail, stick, or otherwise affix bills, posters, advertisements, notices, or other printed or graphic matter upon private property without the consent of the owner.

Penalty, see § 94.99

§ 94.03 BROKEN WINDOWS TO BE REPAIRED.

(A) Any broken windows on any structure, except currently and continuously occupied residential dwellings, shall be repaired and replaced using glass.

(B) Windows on any buildings, which are visible from a publicly dedicated street, walkway, or greenway, shall be repaired, as described above, within 30 calendar days from the date of any initial notification of non-compliance from the town.

(C) Windows that are not visible from publicly dedicated street, walkway or greenway shall be so repaired within 90 calendar days of any such notification of non-compliance from the town.

(Ord. 2006-9, passed 5-9-2006) Penalty, see § 94.99

§ 94.04 OBSTRUCTION IN STREAMS AND DRAINAGE DITCHES.

If any person, firm or corporation shall fell any tree or put any slabs, stumps, sawdust, shavings, lime, refuse or any other substances, or allow any vegetative growth to occur in any creek, stream, river or natural or artificial drainage ravine or ditch, or in any other outlet which serves to remove water from any land whatsoever whereby the drainage of said land is impeded, delayed or prevented, the person, firm or corporation so offending shall be guilty of a Class 2 misdemeanor. In addition to any fine or imprisonment imposed, the court may, in its discretion, order the person, firm, or corporation so offending to remove the obstruction and restore the affected waterway to an undisturbed condition, or allow authorized employees of the enforcing agency to enter upon the property and accomplish the removal of the obstruction and the restoration of the waterway to an undisturbed condition, in which case the costs of the removal and restoration shall be paid to the enforcing agency by the offending party. This section may be enforced by marine fisheries inspectors and wildlife protectors. Within the boundaries

of the town, this section may also be enforced by any law enforcement officer having territorial jurisdiction.

(Ord. passed 4-8-2008) Penalty, see § 94.99

WEEDS

§ 94.15 ACCUMULATION OF WEEDS DECLARED A NUISANCE.

(A) *Built out lots.* Vegetation on built out lots shall not exceed 12 inches in height and is hereby declared a public nuisance and shall be subject to the enforcement actions outlined in this subchapter. Also, any vegetation that in the opinion of town staff is a breeding ground for rats, snakes, and other vermin is hereby declared a public nuisance and shall be subject to the same enforcement procedures as outlined in this subchapter.

(B) *Vacant lots within 25 feet of a building.* Vacant lots that are situated within 25 feet of any structure shall be subject to the same standards as built out lots.

(C) *Vacant lots.* Vegetation on vacant lots, except those outlined above, shall not exceed 18 inches in height. Any growth of vegetation that in the opinion of town staff is a breeding ground for rats, snakes, and other vermin is hereby declared a public nuisance.
Penalty, see § 94.99

§ 94.16 COMPLAINT AND INVESTIGATION.

The Town Manager, upon notice from any person of the existence of any of the conditions described in § 94.15, shall cause an investigation to be made to determine if in fact the conditions exist as to constitute a public nuisance as declared in § 94.15. In order to make a complaint under this section, the complainant must own property that directly abuts the property in violation of § 94.15.

§ 94.17 NOTICE TO ABATE.

Upon a determination that such conditions constituting a public nuisance exist, the Town Manager shall notify, in writing, the owner, occupant, or person in possession of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within 15 days from the receipt of such written notice. If at all possible, notice should be given to the property owner by telephone as well as in writing.

§ 94.18 HEARING.

Within seven days from the receipt of the notice provided for in § 94.17, the owner, occupant, or person in responsible charge of the premises may request a hearing before the Town Manager. The Town Manager shall fix a time for the hearing and the initial abatement order shall be temporarily suspended pending the hearing. At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order. Upon completion of the hearing, the Town Manager shall consider the evidence before him or her and shall either revoke the initial order, issue a final order which differs from the initial order, or reinstate the initial order as a final abatement order.

§ 94.19 FAILURE TO ABATE.

(A) If any person, having been ordered to abate such a public nuisance, fails, neglects, or refuses to abate or remove the conditions constituting the nuisance within 15 days from receipt of said order, the Town Manager shall cause said conditions to be removed or otherwise remedied by having employees of the town go upon said premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the Manager.

(B) Any person who has been ordered to abate a public nuisance may within the time allowed by this subchapter request the town in writing to remove such conditions, the cost of which shall be paid by the person making such request.

§ 94.20 LIABILITY FOR COST OF REMOVAL.

The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the Town Manager to mail a statement of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within 30 days from the receipt thereof.

§ 94.21 LIEN FOR NONPAYMENT OF CHARGES.

In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in § 92.20, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

§ 94.22 ADDITIONAL REMEDIES AVAILABLE.

The procedures set forth in this subchapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this subchapter shall not prevent

the town from proceeding in a criminal action against any person, firm, or corporation violating the provisions of this subchapter as provided in G.S. § 14-4.

§ 94.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

(B) Failure to comply with § 94.03 shall result in a fine, charged to the owner of record of the property containing the non-compliant structure, of \$50 for each 30 calendar day period, not including the initial 30-day notification period, in which the structure remains in non-compliance with this section. The maximum amount of such fine shall not exceed \$300. At the end of a 180 calendar day period of non-compliance, not including the initial 30-day notification period, any unpaid fine resulting from non-compliance with this section shall be filed as a lien against the property containing the non-compliant structure. However, the town shall notify the owner of record of such property of the outstanding balance of such fine, 15 calendar days prior to its filing with the court.

(Ord. 2006-9, passed 5-9-2006)

CHAPTER 95: STREETS AND SIDEWALKS

Section

General Provisions

- 95.01 Board of Commissioners to approve new streets
- 95.02 Assembly on streets and sidewalks
- 95.03 Sidewalk displays prohibited
- 95.04 Repair of motor vehicles
- 95.05 Ballgames in streets prohibited
- 95.06 Maintenance of public areas; receptacles
- 95.07 Damage to streets by tractors or other equipment
- 95.08 Sheds and awnings over sidewalks
- 95.09 Housemoving; bond required

Excavations and Repairs; Construction Requirements

- 95.20 Excavation permit required
- 95.21 Application and fees
- 95.22 Duty to refill excavation opening
- 95.23 Responsibility for protecting excavation site
- 95.24 Sidewalk construction; permit required
- 95.25 Passageway provided during construction
- 95.26 Driveway construction; permit required

Parades and Demonstrations

- 95.40 Definitions
- 95.41 Permit required
- 95.42 Standards for issuance of permit
- 95.43 Application; requirements
- 95.44 Prohibited activities
- 95.45 Revocation of permit
- 95.46 Interference with parades prohibited
- 95.47 Picketing
- 95.48 Exceptions

Cross-reference:

Damaging public property on streets, see § 130.01

GENERAL PROVISIONS**§ 95.01 BOARD OF COMMISSIONERS TO APPROVE 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 of Commissioners 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.

Penalty, see § 10.99

§ 95.02 ASSEMBLY ON STREETS AND SIDEWALKS.

Except as provided in §§ 95.40 through 95.48 of this code, it shall be unlawful for crowds or assemblages of persons to congregate on the streets or sidewalks of the town in such a way as to unnecessarily interfere with pedestrian or vehicular traffic. Any person refusing to disperse upon being so ordered by a police officer shall be guilty of a misdemeanor.

Penalty, see § 10.99

§ 95.03 SIDEWALK DISPLAYS PROHIBITED.

It shall be unlawful for any person, firm, or corporation to place or set out for exhibition any goods, wares, or merchandise directly connected with the business transacted by him or her, on the sidewalk in front of a place of business, store, or building owned, controlled, or occupied by him or her that interferes with traffic in the street or on the sidewalks of the town.

Penalty, see § 10.99

§ 95.04 REPAIR OF MOTOR VEHICLES.

It shall be unlawful for any person, firm, or corporation to repair a motor vehicle on a paved street of the town except in case of an emergency.

Penalty, see § 10.99

§ 95.05 BALLGAMES IN STREETS PROHIBITED.

No person shall play baseball, football, or any other game of ball, or shall pitch or catch a ball on any street or sidewalk within the corporate limits of the town.

Penalty, see § 10.99

§ 95.06 MAINTENANCE OF PUBLIC AREAS; RECEPTACLES.

(A) *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 upon the street or other public way.

(B) *Receptacles.* Suitable receptacles may be provided in parking or access areas within the meaning of division (A) hereof. These receptacles shall be plainly marked and constructed to prevent scattering of trash, litter, rubbish, or other materials deposited in them.

Penalty, see § 10.99

Cross-reference:

Accumulation of weeds and refuse, see § 94.15

§ 95.07 DAMAGE TO STREETS BY TRACTORS OR OTHER EQUIPMENT.

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 upon 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.

Penalty, see § 10.99

§ 95.08 SHEDS AND AWNINGS OVER SIDEWALKS.

It shall be unlawful for any person, firm, or corporation to construct or erect, or cause to be constructed or erected, any structure, and particularly any awning or similar structure, over any sidewalk or any part of any sidewalk of town unless such structure is at least seven feet above the surface of such sidewalk, this restriction is in addition to other restrictions which now, or may in the future, apply to such structures.

Penalty, see § 10.99

§ 95.09 HOUSEMOVING; BOND REQUIRED.

No person shall move any house or building upon or across the public streets or sidewalks without the written consent of the Board of Commissioners and the deposit of a good and sufficient bond to cover damage to such street or sidewalk or to any property of any person.

Penalty, see § 10.99

EXCAVATIONS AND REPAIRS; CONSTRUCTION REQUIREMENTS**§ 95.20 EXCAVATION PERMIT REQUIRED.**

It shall be unlawful for any person, firm, or corporation to dig any hole, ditch, or excavation of any kind whatsoever, on any street in the town without first securing a permit therefor in writing from the Town Manager.

Penalty, see § 10.99

Statutory reference:

Establishment and control over municipal streets, see G.S. § 160A-296

§ 95.21 APPLICATION AND FEES.

All persons desiring a permit to make an opening in any street or sidewalk, as set forth in § 95.20, 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 of Commissioners for such permit.

Penalty, see § 10.99

§ 95.22 DUTY TO REFILL EXCAVATION OPENING.

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 refilling shall be done in accordance with the standards and specifications of the town.

Penalty, see § 10.99

§ 95.23 RESPONSIBILITY FOR PROTECTING EXCAVATION SITE.

It shall be unlawful for any person, firm, organization, or corporation who obtains a permit under this subchapter 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.

Penalty, see § 10.99

§ 95.24 SIDEWALK CONSTRUCTION; PERMIT REQUIRED.

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.
Penalty, see § 10.99

§ 95.25 PASSAGEWAY PROVIDED DURING CONSTRUCTION.

Before building or remodeling at any place where the same is in close proximity to the sidewalk, a passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage.
Penalty, see § 10.99

§ 95.26 DRIVEWAY CONSTRUCTION; PERMIT REQUIRED.

It shall be unlawful for any person, firm, or corporation to construct a driveway across any public sidewalk, walkway, or into any street or cut any curb for such purpose without first having obtained a permit therefor as required herein.
Penalty, see § 10.99

PARADES AND DEMONSTRATIONS

§ 95.40 DEFINITIONS.

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

BLOCK. Portion of any street lying between its intersections with other streets.

GROUP DEMONSTRATION. Any assembly together or concert of action between or among two or more persons for the purpose of protesting any matter or of making known any position or promotion of such persons, or of or on behalf of any organization or class of persons, or for the purpose of attracting attention of such assembly.

PARADE. Any assemblage of two or more persons participating in or operating any vehicle in any march, ceremony, show, exhibition, or procession of any kind in or upon the public streets, sidewalks, alleys, parks, or other public grounds or places.

PERSON. Any person, firm, corporation, partnership, association, or other organization, whether formal or informal.

PICKET LINE. Any two or more persons formed together for the purpose of making known any position or promotion of such persons, or on behalf of any organization or class of persons.

§ 95.41 PERMIT REQUIRED.

It shall be unlawful for any person to organize, conduct, or participate in any parade, picket line, or group demonstration in or upon any street, sidewalk, alley, or other public place within the town unless a permit therefore has been issued by the town in accordance with the provisions of this subchapter.

Penalty, see § 10.99

§ 95.42 STANDARDS FOR ISSUANCE OF PERMIT.

The Chief of Police or his or her designee shall not issue permits as required in § 95.41, if he or she finds that:

(A) The parades, picket lines, or group demonstrations are to commence before 6:00 a.m. or terminate after 5:00 p.m.

(B) The parades or group demonstrations are to be held at the same time and place as those designated in a permit issued pursuant to a written application previously received by the Chief of Police or his or her designee;

(C) The conduct of the parade will substantially interrupt the safe and orderly movement of other traffic contiguous to its route;

(D) The conduct of the parade will require the diversion of so great a number of police officers of the town to properly police the line of movement of the parade and contiguous areas so that adequate police protection cannot be provided the remainder of the town;

(E) The conduct of the parade will require the diversion of so great a number of ambulances so that adequate ambulance service to portions of the town not occupied by the parade and contiguous areas will be prevented;

(F) The concentration of persons, animals, and vehicles at assembly points of the parade will substantially interfere with adequate fire and police protection of, or ambulance service to, areas contiguous to assembly areas;

(G) The conduct of the parade is reasonably likely to result in violence to persons or property causing serious harm to the public;

(H) The parade is to be held for the primary purpose of advertising a product, good, or event and is designed to be held primarily for profit; and/or

(I) The conduct of the parade will interfere with the movement of firefighting equipment to such an extent that adequate fire protection cannot be provided to the town.

§ 95.43 APPLICATION; REQUIREMENTS.

The Chief of Police or his or her designee shall issue permits as required in § 95.42, and in the issuance thereof he or she shall:

(A) Require a written application for permits to be filed not less than 24 hours in advance of such parade, picket line, or group demonstration which application shall specify the time and place for the commencement of any such picket line and the time, place, route, and duration of any such parade or group demonstration;

(B) Require that the application for a permit specify whether or not minors below the age of 18 years will be permitted to participate; and

(C) Require that the application for a permit shall specify and the permit shall designate the person or persons in charge of the activity. Such person shall be required to accompany the parade, picket line, or group demonstration and shall carry such permit with him or her at that time. Such permit shall not be valid in the possession of any other person.

Penalty, see § 10.99

§ 95.44 PROHIBITED ACTIVITIES.

The following acts or activities, when performed or undertaken in conjunction with or as a part of any parade, picket line, or group demonstration, are hereby prohibited and declared unlawful:

(A) The carrying on or about the person any firearm, or any weapon or article, including but not limited to blackjacks, nightsticks, or flashlights which by their use might constitute a deadly weapon; and/or

(B) The taking or keeping of any dog or other vicious animal, whether leashed or unleashed.
Penalty, see § 10.99

§ 95.45 REVOCATION OF PERMIT.

The Chief of Police shall revoke any permit granted for a parade, picket line, or group demonstration for any of the following causes:

(A) The violation by any participant of §§ 95.42 through 95.44 of this chapter; and/or

(B) The failure to comply with the terms and conditions of the permits.

Penalty, see § 10.99

§ 95.46 INTERFERENCE WITH PARADES PROHIBITED.

No person shall hamper, obstruct, impede, or interfere with any parade, picket line, or group demonstration being conducted under authority of a permit duly issued by the Chief of Police.

Penalty, see § 10.99

§ 95.47 PICKETING.

Picket lines and picketing shall be subject to the following additional regulations.

(A) Picketing may be conducted only on the sidewalks reserved for pedestrian movement, and may not be conducted on the portion of a street used primarily for vehicular traffic.

(B) Not more than ten pickets promoting the same objective shall be permitted to use either of the two sidewalks within a single block at any one time.

(C) Pickets may carry written or printed placards or signs not exceeding two feet in width and two feet in length promoting the objective for which the picketing is done; provided, the words used are not derogatory or defamatory in nature.

(D) Pickets must march in single file and not abreast and must not march closer together than 15 feet, except in passing one another. Pickets shall not be allowed to walk more than five feet from the curb line and shall be in continuous motion.

(E) If pickets promoting different objectives desire to use the same sidewalk for picketing and such use would result in the presence of more than ten pickets thereon, the Chief of Police shall allot time to each group of pickets for the use of such sidewalk on an equitable basis.

Penalty, see § 10.99

§ 95.48 EXCEPTIONS.

This subchapter shall not apply to:

(A) Funeral processions; and/or

(B) Any governmental agency acting within the scope of its functions.

CHAPTER 96: TREES

Section

General Provisions

- 96.01 Purpose
- 96.02 Definitions
- 96.03 Authority of town to treat, trim, or remove trees in case of disease, insects, or hazards
- 96.04 Emergencies

Tree Board

- 96.15 Tree Board created
- 96.16 Powers and duties of Tree Board

Regulating Trees on Public Properties

- 96.30 Permit required
- 96.31 Topping prohibited
- 96.32 Public/private utilities
- 96.33 Road projects
- 96.34 Injuring trees

Administration and Enforcement

- 96.45 Administration
- 96.46 Enforcement
- 96.47 Appeals

GENERAL PROVISIONS

§ 96.01 PURPOSE.

The purpose of this chapter is to provide full power and authority over all trees, plants, and shrubs located within the street rights-of-way, parks, and other public places of the town; and to trees, plants, and shrubs located on private property as described hereinafter. Such power and authority shall promote

and protect the public health, safety, and general welfare and, further, shall accentuate the scenic, cultural, historical, and aesthetic attributes of the town by establishing procedures and practices for fulfilling these purposes.

Penalty, see § 10.99

§ 96.02 DEFINITIONS.

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

BUFFER ZONE. An open or landscaped area of appropriate design preventing a visual and/or noise separation between incompatible land uses.

CONTRACTOR. One that contracts or is party to a contract.

HOMEOWNER. A tenant or owner of an existing single-family or duplex residence.

IMPERVIOUS COVER. Buildings and paved areas.

LANDMARK TREE. A tree which has special significance because of one or more of the following criteria apply rare species, old age, size, location, association with an historical event or person, scenic enhancement, or unique characteristics.

LARGE TREE. A tree having a height of 30 feet or more at maturity.

§ 96.03 AUTHORITY OF TOWN TO TREAT, TRIM, OR REMOVE DISEASE, INSECTS, OR HAZARDS.

(A) The town shall have the power to enter upon any public or private lands in the town and to spray or otherwise treat, or cause or order to be sprayed or otherwise treated, any tree infected or infested by any parasite, insect or pest, when it shall be necessary, in the town's opinion, to do so to prevent the breeding or scattering of any parasite, insect, or pest and to prevent danger therefrom to persons or property or to trees planted on the public lands or other private lands.

(B) Whenever, in the opinion of the town, trimming, treatment, or removal of any such tree located on the public or private lands shall be deemed wise, the town shall have the power to trim, treat, or remove any such tree or shrub or cause or order the same to be done.

(C) Prior to exercising the authority conferred by this section, the town shall give the owner or occupant an opportunity to correct the condition by ordering that corrective action be taken. The order shall be in writing to the owner or occupant of the property in question and shall be acted upon within ten days from the receipt of the order. If, after ten days, the owner or occupant has not corrected the condition or undertaken action that would lead to a timely correction of the problem, then the town is

authorized to enter upon the property to perform the work necessary to correct the condition and to bill the owner or occupant for the costs incurred.

Penalty, see § 10.99

§ 96.04 EMERGENCIES.

In the case of emergencies such as windstorms, ice storms, fire, or other natural disasters, the requirements of this chapter may be waived by the town during the emergency period so that they would in no way hamper private or public work to restore order in the town. This shall not be interpreted to be a license to circumvent the intent of this chapter.

TREE BOARD

§ 96.15 TREE BOARD CREATED.

The Town Tree Board is hereby created. This Board shall consist of five members, all of whom shall be residents of the town. The members shall serve terms of four years.

§ 96.16 POWERS AND DUTIES OF TREE BOARD.

The following are powers and duties of the Tree Board:

(A) To study and make recommendations to the Board of Commissioners regarding the planting, maintenance, and protection of trees on public property; or when requested by the Mayor and Board of Commissioners, shall consider, investigate, make findings, report, and recommend upon any special matter or questions coming within the scope of its work;

(B) To recommend to the Board of Commissioners the genus and species of trees to be planted on public lands; and upon request, to advise owners of private land about the trees to be planted on private land;

(C) To assist the Town Parks and Recreation Commission in a program to protect and maintain existing trees and green areas and all town owned and recreational lands and properties;

(D) To accept all contributions, fees, donations, exactions, or other funds for the planting, care, and protection of trees throughout the town and recommend expenditure of said funds to the Board of Commissioners;

(E) To recommend to the Board of Commissioners all rules, regulations, and specifications concerning the trimming, spraying, removal, planting, pruning, and protection of trees and other plants; and

(F) The Tree Board, or its agent, shall select, map, and identify by genus, species, and common name, all trees that qualify to be named "Landmark Trees" of the town. Such trees may be named or otherwise officially designated by the Tree Board. Landmark trees can be designated on both public and private lands.

REGULATING TREES ON PUBLIC PROPERTIES

§ 96.30 PERMIT REQUIRED.

No person shall plant, remove, destroy, cut, prune (including the root system), poison, or otherwise treat any tree having its trunk in or upon any public lands, or contract with another person to perform such acts, without first obtaining a permit from the Public Works Director and without complying strictly with the provisions of the permit and provisions of this chapter.
Penalty, see § 10.99

§ 96.31 TOPPING PROHIBITED.

It shall be unlawful as a normal or routine practice for any person(s); town, county, or state employee; or public/private utility employees to top any tree on public lands. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions may be exempted from this section when other pruning practices are impractical.
Penalty, see § 10.99

§ 96.32 PUBLIC/PRIVATE UTILITIES.

All public/private utilities shall acknowledge the town's desire to protect and enhance the viability of trees and shall comply with the Tree Board's separate specifications for pruning and removal of trees on or adjacent to public lands. A utility shall not be required to obtain a permit for routine operations affecting trees, as long as such work is done in strict accordance with the approved specifications. Requests for the removal of trees or pruning in excess of specifications will be handled on an individual permit basis. Failure to comply with the approved specifications is a violation of this section.
Penalty, see § 10.99

§ 96.33 ROAD PROJECTS.

Individual permits will not be required for town or NC DOT road projects as long as tree preservation and protection requirements are included in the project plans.
Penalty, see § 10.99

§ 96.34 INJURING TREES.

(A) It shall be unlawful for any person, except with a written permit, to place or maintain upon public lands, any stone, cement, or other impervious matter or substance in such a manner as may obstruct the free access of air and water to the roots of any tree within such public lands. This provision shall not apply to the paving, repairing, or altering of the public streets, sidewalks, and other public places by the town.

(B) No person shall perform construction work (including the operation or storage of equipment or materials) within the drip line of any public tree without first obtaining a permit from the town.

(C) It shall be unlawful for any person to attach to any public tree or to the guard or stake intended for the protection of such tree, rope, wire, chain, sign, or other device whatsoever, except for the purpose of protecting it or the public.
Penalty, see § 10.99

ADMINISTRATION AND ENFORCEMENT**§ 96.45 ADMINISTRATION.**

The provisions of this chapter shall be administered by the Town Manager or his or her designee, with general oversight provided by the Tree Board. Duties shall include issuing permits and inspecting public lands, and private lands when authorized, in fulfillment of the requirements of this chapter.

§ 96.46 ENFORCEMENT.

The Town Manager or his or her designee shall be responsible for the enforcement of this chapter.

§ 96.47 APPEALS.

The Tree Board shall be empowered to take appeals by any person affected by any decision of the Town Manager regarding this chapter. Such appeal shall be made to the Board within 15 days, by filing with the Town Clerk a written notice of appeal specifying the grounds thereof.

CHAPTER 97: MISCELLANEOUS OFFENSES

Section

- 97.01 Unnecessary noise prohibited
- 97.02 Posting of printed matter; posting on private property
- 97.03 Broken windows to be repaired
- 97.04 Obstruction in streams and drainage ditches

- 97.99 Penalty

§ 97.01 UNNECESSARY NOISE PROHIBITED.

(A) *Prohibition.*

(1) *Generally.* It shall be unlawful for any person, firm, or corporation to create or assist in creating any unreasonably loud, disturbing, and unnecessary noise in town. Noise of such character, intensity, and duration as to be detrimental to the public health, welfare, and peace is prohibited.

(2) *Amplifiers.* The use of mechanical loud speakers or amplifiers on trucks, airplanes, or other vehicles, or by any other means, for advertising or other commercial purposes is prohibited.

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

DISTURBING. Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.

UNNECESSARY. Any excessive or unusually loud sound, or any sound which is of such character, intensity, and duration as to disturb the peace and quiet of any neighborhood, or which disturbs, injures, or endangers the comfort, repose, health, peace, or safety of any person, and being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his or her conduct.

UNREASONABLY LOUD.

(a) Noise which is substantially incompatible with the time and location where created to the extent that it creates interference to the peace and good order of the area.

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(b) In determining whether a noise is unreasonably loud, disturbing, and unnecessary, the following factors incident to such noise are to be considered:

1. Time of day;
2. Proximity to residential structures;
3. Whether the noise is or has been enhanced in volume and intensity;
4. The nature and zoning of the area;
5. Whether the noise is related to the normal operation of a business or activity, or is the result of some use for individual purposes; and
6. Whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

(C) *Enumerated acts.* The following acts, in addition to the prohibitions set forth in division (A) of this section, and among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this list shall not be deemed to be exclusive:

(1) The sounding of any horn, whistle, or signal device on any motorized or other vehicle, except as a danger signal or as required by law, so as to create any unreasonable, loud, or harsh sound, or the sounding of such device for an unnecessary and unreasonable period of time;

(2) The playing of any radios, record players, television sets, or sound-producing equipment in such a manner or with such volume that it may be heard from a distance of 50 feet, particularly, but not limited to, the hours between 10:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort, or repose of any person on a street or in a public area, business, dwelling, motel, hotel, or other type of residence;

(3) 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;

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

(5) The blowing of any steam whistle attached to any stationary boiler, except to warn of danger;

(6) The discharge into the open of any exhaust by an engine, except through a muffler or other device which will effectively prevent loud or explosive noise there from;

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

(8) The creation of any excessive noise on any street adjacent to any school, institute of learning, court, or church while the institutions are in session, or within 150 feet of any hospital, which unnecessarily interferes with the work of the institutions, provided that conspicuous signs are displayed in the streets indicating that the area is a school, court, church, or hospital area.

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

(10) The erection (including excavation), demolition, alteration, or repair of any building in a residential or business district other than between sunrise and sunset, except in the interest of public safety and then only with a permit from the Building Inspector, which permit maybe renewed for a period of three days or less while the emergency continues;

(11) Yelling, shouting, or loud talking by persons after the hour of 10:00 p.m. and before 7:00 a.m. in close proximity to dwellings, in a manner likely to disturb the rest and repose of the residents thereof;

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

(13) The use of mechanical loud speakers or amplifiers on trucks, airplanes, or other vehicles, or by any other means for advertising or other commercial purposes is prohibited.
(Ord. passed - -) Penalty, see § 97.99

§ 97.02 POSTING OF PRINTED MATTER; POSTING ON PRIVATE PROPERTY.

(A) *Posting of printed matter.* It shall be unlawful for any person, firm, or corporation to post, nail, stick, or otherwise affix bills, posters, advertisements, notices, or any other printed or graphic matter upon public property in the town. This section shall not apply to notices, signs, or advertisements required to be posted by law; signs or plates on residential premises giving the name or address of the occupant; mail boxes or newspaper tubes; municipal, county, state, and federal traffic signs, historical markers, monuments, or signs erected by public authority; temporary displays as a part of customary holiday decorations; and signs denoting the location of underground utilities.

(B) *Posting on private property.* It shall be unlawful for any person, firm, or corporation to nail, stick, or otherwise affix bills, posters, advertisements, notices, or other printed or graphic matter upon private property without the consent of the owner.
(Ord. passed - -) Penalty, see § 97.99

§ 97.03 BROKEN WINDOWS TO BE REPAIRED.

(A) Any broken windows on any structure, except currently and continuously occupied residential dwellings, shall be repaired and replaced using glass.

(B) Windows on any buildings which are visible from a publicly dedicated street, walkway, or greenway, shall be repaired, as described above, within 30 calendar days from the date of any initial notification of non-compliance from the town.

(C) Windows that are not visible from publicly dedicated street, walkway or greenway shall be so repaired within 90 calendar days of any such notification of non-compliance from the town.
(Ord. passed - -) Penalty, see § 97.99

§ 97.04 OBSTRUCTION IN STREAMS AND DRAINAGE DITCHES.

If any person, firm, or corporation shall fell any tree or put any slabs, stumpage, sawdust, shavings, lime, refuse, or any other substances, or allow any vegetative growth to occur in any creek, stream, river, or natural or artificial drainage ravine or ditch, or in any other outlet which serves to remove water from any land whatsoever, whereby the drainage of said land is impeded, delayed, or prevented, the person, firm, or corporation so offending shall be guilty of a Class 2 misdemeanor. In addition to any fine or imprisonment imposed, the court may, in its discretion, order the person, firm, or corporation so offending to remove the obstruction and restore the affected waterway to an undisturbed condition, or allow authorized employees of the enforcing agency to enter upon the property and accomplish the removal of the obstruction and the restoration of the waterway to an undisturbed condition, in which case the costs of the removal and restoration shall be paid to the enforcing agency by the offending party. This section may be enforced by marine fisheries inspectors and wildlife protectors. Within the boundaries of the town, this section may also be enforced by any law enforcement officer having territorial jurisdiction.

(Ord. passed - -) Penalty, see § 97.99

§ 97.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no other specific penalty applies shall be punished as set forth in § 10.99.

(B) Any person who violates the provisions of § 97.04 shall be punished by a fine not exceeding \$50 or imprisoned not exceeding 30 days, or both, for each offense. The placing, discarding, disposing, or leaving of articles forbidden by § 97.04 shall, for each day or portion thereof the articles or matter are left, constitute a separate offense.

(Ord. passed - -)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. GENERAL LICENSING PROVISIONS**
- 111. ALARM BUSINESSES**
- 112. AMUSEMENTS**
- 113. MASSAGE BUSINESSES**
- 114. PEDDLERS, SOLICITORS, AND TRANSIENT VENDORS**
- 115. TAXICABS**
- 116. ALCOHOLIC BEVERAGE SALES**

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CHAPTER 110: GENERAL LICENSING PROVISIONS

Section

- 110.01 Definitions
- 110.02 License tax levied
- 110.03 Tax collector; duties
- 110.04 License; due date
- 110.05 Application
- 110.06 Prorating of tax; seasonal businesses
- 110.07 Multiple businesses
- 110.08 Separate place 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 adopted

Cross-reference:

Responsibility of business establishments as to curfew for minors, see § 130.34

§ 110.01 DEFINITIONS.

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

AGENT. The person having the agency for the manufacturer, producer, or distributor.

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

ENGAGED IN THE BUSINESS. Engaged in the business as owner or operator;

FISCAL YEAR. The period beginning with July 1 and ending with June 30 next following.

PERSON. Any person firm, partnership, company, or corporation.

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QUARTER. Any three consecutive months.

SEASONAL IN NATURE. A business is **SEASONAL IN NATURE** when it is taxed by this chapter on an annual basis, but is operated in the town for less than six months of the year.

§ 110.02 LICENSE TAX LEVIED.

A license tax is levied on the privilege of engaging in business within this town, which is listed in the schedule of taxes adopted by reference in § 110.16 of this chapter. Any person so engaged in business shall be responsible for making certain that the applicable license tax is paid.
Penalty, see § 10.99

§ 110.03 TAX COLLECTOR; DUTIES.

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

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

§ 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 the subsequent calendar year.

(B) The privilege license tax is due on July 1 of each year. If, however, a person begins business after July 1, the tax for that year must be paid before the business is begun.
Penalty, see § 10.99

§ 110.05 APPLICATION.

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

- (1) Name and nature of 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 or her 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 Tax Collector determines to be necessary.

(B) No person shall willfully make a false statement on a license application.
Penalty, see § 10.99

§ 110.06 PRORATING 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 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 the amount of tax otherwise due.
Penalty, see § 10.99

§ 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 adopted by reference in § 110.16 of this chapter for each business, even if the businesses are conducted at the same business location.
Penalty, see § 10.99

§ 110.08 SEPARATE PLACES OF BUSINESS.

Unless otherwise provided by state law or by the tax schedule adopted by reference in § 110.16 of this chapter, 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 the 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 tax.
Penalty, see § 10.99

§ 110.09 DISPLAY OF LICENSE.

Every license must be kept prominently displayed at the place of business of the licensee named in the license, or, if the licensee has no fixed place business, such licensee must keep the same wherever such business is being operated and where it can be inspected at any time by the proper municipal official.

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 Tax Collector of the change in address.

Penalty, see § 10.99

§ 110.11 NO ABATEMENT OF TAX.

No license tax shall be abated nor shall any refund of any part thereof be made, in any case where the licensee discontinues his or her business before the end of the period for which such license was issued.

Penalty, see § 10.99

§ 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 qualification are required by state or local law, nor does the issuance of a license prevent the town from enacting additional regulations applicable to the license.

§ 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.

§ 110.14 UNLAWFUL TO CONDUCT BUSINESS WITHOUT A LICENSE.

(A) It shall be unlawful for any person or his or her agent or servant to engage in or carry on a business in the town for which there is required a license, without first having paid the license tax and obtaining the license. For the purpose of this section the opening of a place of business or offering to

sell, followed by a single sale or the doing of any act or thing in furtherance of the business shall be construed to be engaging in or carrying on such business; and each day that such person, firm, or corporation shall engage in or carry on such business as aforesaid, shall be construed to be a separate offense.

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

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

(2) The remedy of levy and sale of real and personal property of the tax payer in accordance with G.S. § 105.109(d).

(C) Any person who begins or continues to engage in 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.

§ 110.16 SCHEDULE OF LICENSE TAXES ADOPTED.

Taxes shall be levied and collected on the trades, professions, agencies, business operations, and other subjects set out in the schedule of license taxes, hereby made a part hereof, which is on file in the town office. Privilege licenses shall be issued without charge.

CHAPTER 111: ALARM BUSINESSES

Section

- 111.01 Definitions
- 111.02 Registration of business required
- 111.03 Permit and permit revocation
- 111.04 Alarm testing procedures
- 111.05 Severability

111.99

§ 111.01 DEFINITIONS.

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

ALARM. Shall be deemed to include, but is not limited to, “silent, visible, audible, recorded, and direct dialed” and shall also include any device that delivers a recorded message to any emergency or police department telephone requesting a law enforcement response.

ALARM BUSINESS OPERATOR. Any person, corporation, proprietorship, partnership, or other organization engaged in the business of selling, leasing, installing, maintaining, and/or monitoring alarm systems installed on premises located in the town. Any owner, lessor, or other(s) that install any alarm system on any property they occupy, shall for the purpose of this chapter be deemed **ALARM BUSINESS OPERATORS** only if they are installing an alarm system that has an alarm that has an automatic dialer and/or automatic signal transmission.

ALARM SYSTEM. Any electronic or mechanical device that transmits an alarm signal outside the location, which is designed, intended, or used to detect and/or intended to alert law enforcement personnel to an actual or attempted unauthorized entry into a building or to the commission of a crime.

FALSE ALARM. The activation of an alarm system through the negligence of the subscriber, or equipment malfunction within the control of the subscriber or alarm business operated, or any alarm testing activation where the Police Department’s Emergency Communication Center has not been forewarned of the testing. An alarm signal caused by conditions of nature or other extraordinary circumstances not reasonably subject to control by the subscriber or alarm business operator shall not

be deemed a false alarm. Failure to use available technology, such as a battery backup, or other technological advances designed to prevent false alarm activations, and/or failure to properly maintain the alarm system or the technology used, may be deemed a **FALSE ALARM**.

SUBSCRIBER. Any person, corporation, partnership, proprietorship, governmental, educational, or other entity owning or leasing an alarm system. This shall also include any employee(s) of the subscriber, and/or any agent acting on behalf of the subscriber.

§ 111.02 REGISTRATION OF BUSINESS REQUIRED.

(A) Every alarm business operator shall register their business with the Police Department prior to installation of any alarm system in the corporate limits, so that the Police Department can verify that the alarm company is a properly licensed security business as required once, and will be valid as long as the business operates in the town.

(B) Alarm business operators shall obtain any privilege license allowed by law.

(C) Each alarm business operator that is required shall be licensed under G.S. Chapter 74D. Penalty, see § 111.99

§ 111.03 PERMIT AND PERMIT REVOCATION.

(A) Any alarm system that utilizes an "automatic signal transmission" or an "automatic dialer" that calls the Emergency Communications Center and/or the Police Department shall first obtain a permit from the town before the installation of the system, there shall be no cost for this permit, however the installer and/or user shall be responsible for all installation costs associated with these systems.

(B) At any time after six false alarm activations within 12 months the Chief of Police may rule that there have been excessive false alarms and may revoke said permit and cause disconnection of the alarm systems transmission signal to the Emergency Communications Center and/or Police Department.

(C) In case of such revocation, a new permit for the same alarm system or same subscriber may be issued with the approval of the Chief of Police under the provisions of this section, upon satisfactory proof that the alarm system has been modified to minimize further violations, and that any outstanding service charges have been paid in full. The new permit shall be charged the initial issue fee.

(D) Intentional false activations or activations designed to summon law enforcement personnel, such as the use of "panic" buttons, when the need of law enforcement is non-emergency in nature shall be cause for permit revocation, in addition to other applicable penalties. Penalty, see § 111.99

§ 111.04 ALARM TESTING PROCEDURES.

(A) Any subscriber or alarm business operator that will be conducting any alarm testing procedures shall first notify the Emergency Communications Center and the Police Department so that no law enforcement personnel will be dispatched during the testing procedure. Failure to do so shall be considered a false alarm.

(B) Alarm activation occurring within the first five calendar days following alarm installation shall not be considered a false alarm, for the purpose of this chapter.

§ 111.05 SEVERABILITY.

In the event that any provision of this chapter or the application thereof to any person or circumstance is for any reason held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions or applications of this chapter, and to this end the provisions of this chapter are declared to be severable.

§ 111.99 PENALTY.

(A) Any violation of this chapter shall subject the offender to a civil penalty in the amount set forth in this section.

(B) Written notification of a violation shall be in the form of a town ordinance violation citation and may be issued in person or by registered mail to the permitted subscriber.

(C) If a subscriber has more than three false alarms but less than 12 in a calendar year there will be a fee of \$25 per offense;

(D) If a subscriber has more than 12 false alarms in a calendar year, there shall be a fine of \$100 per offense and revocation of the permit.

(E) If an alarm activates continuously for more than 60 minutes, it will be considered a false alarm.

(F) If a person fails to pay the fines levied, the town may pursue collection by filing a civil action against the subscriber.

(G) The Chief of Police shall have the authority to waive the penalties at his or her discretion.

CHAPTER 112: AMUSEMENTS

Section

- 112.01 Definition
- 112.02 License required
- 112.03 Application for license; investigation
- 112.04 Denial of license
- 112.05 Form and content of license
- 112.06 Prohibitions
- 112.07 Rules of operation
- 112.08 Licensee responsible for employee acts
- 112.09 Revocation of license

Statutory reference

Regulation of places of amusement, G.S. § 160A-181

§ 112.01 DEFINITION.

For the purpose 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 games, mechanical elections, or other pay device for which charge is made either directly or indirectly. Examples of **GAME ROOMS**, by way of illustration and not limitation, are pool rooms, bowling alleys, billiard halls, centers for the operation of electronic games, amusement centers, and the like.

§ 112.02 LICENSE REQUIRED.

Pursuant to the authority granted to the town by G.S. Chapter 160A-181, to regulate places of amusement and entertainment, it shall be unlawful for any person to maintain or operate any game room unless that person shall have obtained a license from the Board of Commissioners. Such license shall expire on June 30 of each year and shall not be transferable.
Penalty, see § 10.99

§ 112.03 APPLICATION FOR LICENSE; INVESTIGATION.

Application for such license shall be made upon forms provided by the Town Clerk and shall contain all information necessary for the Board of Commissioners to act intelligently upon the application. The Town Clerk shall give the application for such license to the Police Chief who shall investigate the applicant and place sought to be licensed, to determine whether said applicant and place is desirable. The Chief of Police shall furnish the Board of Commissioners with all information pertaining to convictions of any crimes and any other pertinent information pertaining to the location of the game room. After the applicant has appeared before the Board and the investigation made by the Chief of Police has been furnished to the Board, the Board may by majority vote of its members refuse the issuance or order the issuance of such license.

§ 112.04 DENIAL OF LICENSE.

The Board of Commissioners shall not issue a license to any person:

(A) Who has been convicted, within the past two years, of a felony or who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs;

(B) Who is not a citizen and resident of North Carolina;

(C) Who is a habitual user of intoxicating liquor or narcotic drugs;

(D) Who is of immoral character; and/or

(E) Who has within three years of application had a previously issued license for operation of a game room revoked.

§ 112.05 FORM AND CONTENT OF LICENSE.

Every license issued pursuant to this section shall specify the premises for which it is used; the number of tables, alleys, or machines to be operated hereunder; the name of the owner or operator, and the dates upon which the license shall begin and expire. The license shall be posted in a permanent place on the premises at all times and is not transferable to any other premises. A license issued pursuant to this section is void if the business moves or ceases operating a game room at the location required to be stated in the application.

§ 112.06 PROHIBITIONS.

Licensees under this section shall not, and neither shall their employees:

(A) Suffer or permit any gambling on the licensed premises at any time, nor permit the sale of any card or other gambling device;

(B) Suffer or permit the licensed premises to become disorderly, or permit any profane, obscene, or indecent language thereon;

(C) Suffer or permit any alcoholic beverages, as defined in G.S. § 18B-101, or narcotic drugs to be sold or kept or consumed on the licensed premises;

(D) Suffer or permit any person under the age of 16 years to enter or remain on the licensed premises, unless the person is accompanied by a parent or guardian;

(E) Employ in the establishment any person who has been convicted within the last two years of a felony offense; or any person who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; and/or

(F) Suffer or permit any keeley board, keno board, or any other gambling board or device to be attached to or placed upon any tables.
Penalty, see § 10.99

§ 112.07 RULES OF OPERATION.

The following rules shall be observed by all operators of game rooms, pool rooms, bowling alleys, billiard halls, centers for the operation of electronic games, amusement centers, and the like required to be licensed by § 112.02 within the town.

(A) All establishments shall close by 12:00 a.m., midnight, Monday thru Saturday, and no person other than the owner, operator, or employees shall be permitted on the premises from that hour until 7:00 a.m. the following morning; provided that when Daylight Savings Time is in effect all establishments covered herein shall close at 1:00 a.m.

(B) No play on any table, alley, or machine shall be allowed during the time when the premises are required by this section to be closed.

(C) These establishments shall be closed on Sunday.

(D) All establishments shall be operated only on the ground floor of a building and an unobstructed, transparent plate glass window or windows shall be located in those parts of the building facing any street so that a clear view inside may be had from the street.

(E) No screens, curtains, blinds, partitions, or other obstructions shall be placed between the entrance to the room where amusements or games are played and the rear wall of the room. A clear view of the interior premises from the entrance to the rear of the premises must be maintained at all times.

(F) No loud noises shall be allowed to emanate beyond the licensed premises.

(G) There must be an adult (18 years of age or older) managing the business on the premises during hours of operation at all times.

§ 112.08 LICENSEE RESPONSIBLE FOR EMPLOYEE ACTS.

The acts and conduct of the agents and employees of the licensee in the conduct of business covered hereunder shall be deemed to be the acts and conduct of the licensee.

§ 112.09 REVOCATION OF LICENSE.

A second conviction of a licensee, or his or her agent or employee, for any violation of any provision of this section shall by operation of law constitute an automatic revocation of the license of the licensee. In addition, the Board of Commissioners may at any time, for cause and after a hearing for which the licensee shall be given reasonable notice as the Board may direct, revoke the license of any person who violates any of the provisions of this chapter.

CHAPTER 113: MASSAGE BUSINESSES

Section

General Provisions

- 113.01 Purpose of regulations
- 113.02 Definitions
- 113.03 Enforcement of regulations; revocation of license
- 113.04 Treatment of persons of opposite sex restricted
- 113.05 Posting of license
- 113.06 Hours of operation
- 113.07 Patronage of massage business by minors; employment of minors
- 113.08 Annual privilege license

Massage Business Operators; License Procedures

- 113.20 License required
- 113.21 Application; form and contents
- 113.22 Qualifications of applicants
- 113.23 Investigative report; approval procedures
- 113.24 Applicant to furnish health certificate and provide employee information
- 113.25 Issuance of license

Masseurs and Masseuses; Licensing Procedures

- 113.40 License required
- 113.41 Application
- 113.42 Investigative report; approval procedures
- 113.43 Issuance of license
- 113.44 Medical examination
- 113.45 Conditions for revocation by Board

§ 113.01 PURPOSE OF REGULATIONS.

To protect the general health, safety, welfare, and morals, the following licensing provisions hereinafter specified are ordained for the privilege of carrying on the business, trade, or profession of masseur or masseuse and for the operation or carrying on of the business, trade, or professions

commonly known as massage parlors, health salons, physical culture studios, clubs, or establishments, or similar establishments by whatever name designated, wherein physical culture, massage, hydrotherapy, or other physical treatments of the human body is carried on or practiced. The provisions of this chapter shall not apply to a regularly established and licensed hospital, sanitarium, nursing home, or medical clinic, nor to the office or clinic operated by a duly qualified and licensed medical practitioner, osteopath, or chiropractor in connection with his or her practice of medicine, chiropractic or osteopathy, provided however that such office or clinic is regularly used by such medical practitioner, chiropractor, or osteopath as his or her principal location for his or her practice of medicine, chiropractic, or osteopathy.

§ 113.02 DEFINITIONS.

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

MASSEUR or *MASSEUSE*. A male person who applies manual or mechanical massage or similar treatment to the human body trunk or limbs shall be deemed, within the terms of this section, a *MASSEUR*; and a female person so engaged, a *MASSEUSE*.

§ 113.03 ENFORCEMENT OF REGULATIONS; REVOCATION OF LICENSE.

(A) It shall be the duty of the Chief of Police of the town to inspect periodically the premises licensed under this chapter, to determine any violations of its provisions, and to otherwise enforce said chapter.

(B) Whenever the Chief of Police shall have good cause to believe that there exist grounds for revocation of any license hereunder acquired, he or she shall submit a written recommendation of revocation to the Board of Commissioners and by certified mail shall forward, at least ten days prior to the hearing, a copy of his or her recommendation to the licensee. The recommendation shall state the specific reasons for the revocation of the license.

(C) The Board of Commissioners, whenever it has good cause to believe that there exists grounds for revocation of any license acquired hereunder, may, upon its own motion, set a hearing, as hereinabove provided, to show good cause why such license should not be revoked. Written notice stating the specific alleged grounds for revocation shall be forwarded by certified mail to the licensee, at least ten days prior to such hearing, which shall be held in exactly the same manner as if initiated by the Chief of Police.

(D) Prior to revocation of any license by the Board of Commissioners, the licensee shall be given an opportunity to appear and be heard, either personally or through his or her attorney, to rebut any evidence against him or her, and to present evidence and witnesses in his or her defense. If the licensee fails to show good cause why his or her license should not be revoked, the Board may revoke said license, upon a finding by the Board of a cause for revocation.

(E) A license issued pursuant to this chapter shall be revoked by action of the Board of Commissioners if the Board determines that:

- (1) The licensee has violated any provisions of this chapter;
- (2) The licensee, or any agent of the licensee, employs or permits to be employed on the premises of the applicant's massage business any person practicing the profession of massage who has not been issued the privilege license required by this chapter, or whose license has been revoked.
- (3) The licensee, or the legal or beneficial owner of any interest in the licensee is convicted of a felony or any crime involving moral turpitude or sexual misconduct, including but not limited to G.S. §§ 14-177 through 14-220.1, Article 26 (offenses against public morality and decency) and G.S. §§ 14-203 through 14-208, Article 27 (prostitution) or of any section of this chapter; and/or
- (4) The licensee violates any zoning, building, or fire prevention ordinance.

(F) A license issued pursuant to this chapter is void if the licensee moves or ceases operating a massage parlor at the location required to be stated on the application or license pursuant to this chapter. Penalty, see § 10.99

§ 113.04 TREATMENT OF PERSONS OF OPPOSITE SEX RESTRICTED.

It shall be unlawful for any person holding a license under this chapter to treat a person of the opposite sex, except upon a signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of treatments, not to exceed ten. The date and hour of each treatment given and the name of the operator shall be entered on such order by the establishment where such treatments are given and shall be subject to inspection by the police at any reasonable time. The requirements of this section do not apply to treatments given at the residence of the patient, the office of a licensed physician, osteopath, or registered physical therapist, chiropractor, or in a regularly established and licensed hospital or sanitarium. The requirements of this section shall also not apply to treatments given by health massage/bodywork therapists wherever they may be engaged in the business or profession of health massage/bodywork therapy as it is defined in G.S. Chapter 90, Article 36. Provided, any person providing such treatment must have met all the requirements and qualifications set forth in G.S. Chapter 90, Article 36 specifically G.S. §§ 90-620 through 90-636 and must have all certifications and licenses required thereunder. Any persons providing such treatment are subject to all regulations and enforcement provisions under G.S. Chapter 90, Article 36, §§ 90-620 through 90-636 as well as to all other provisions of this chapter of the Code of Ordinances.

Penalty, see § 10.99

§ 113.05 POSTING OF LICENSE.

(A) Every masseur and masseuse shall post the licensee required by this chapter in his or her work area.

(B) Every person, corporation, partnership, or association licensed under this subchapter shall display such license in a prominent place.
Penalty, see § 10.99

§ 113.06 HOURS OF OPERATION.

(A) No person licensed as a masseur or masseuse under this chapter shall massage or treat any person or engage in the business or profession of massage, before 8:00 a.m. or after 12:00 a.m. midnight, prevailing time.

(B) No person, corporation, partnership, or association licensed under this chapter shall admit customers or prospective customers, or remain open for business, or allow, or permit, or condone any massage or treatment of any person before 8:00 a.m. or after 12:00 a.m., midnight, prevailing time.

(C) No person in charge of managing a massage business upon the premises shall allow, permit, or condone any massage or treatment of any person before 8:00 a.m. or after 12:00 a.m., midnight, prevailing time.

§ 113.07 PATRONAGE OF MASSAGE BUSINESS BY MINORS; EMPLOYMENT OF MINORS.

(A) No person licensed as a masseur or masseuse under this chapter shall massage or treat any person under the age of 18 upon the licensed premises, except upon written order by a licensed physician, osteopath, chiropractor, or registered physical therapist, such order being dated and in the possession of the masseur or masseuse giving the massage or treatment. A violation of this section shall be grounds for revocation of any license issued to such violator pursuant to this chapter.

(B) No person, corporation, partnership, or association licensed under this chapter shall allow, permit, or condone the massage or treatment of any person under the age of 18 upon the licensed premises, except upon written order by a licensed physician, osteopath, chiropractor, or registered physical therapist, such order being dated, and a true copy of such order being in the possession of the licensee before administration of any massage or treatment. A violation of this division (B) shall be grounds for revocation of any license issued to such violator pursuant to this chapter.

(C) No person, corporation, partnership, or association licensed pursuant to this chapter shall employ any person under the age of 18 years in the operation of a massage business.
Penalty, see § 10.99

§ 113.08 ANNUAL PRIVILEGE LICENSE.

The licenses required under this chapter are annual privilege licenses. Such license fees shall be due and payable in the same manner as prescribed for other privilege licenses issued by the town pursuant to the license and privilege tax ordinance of the town.

Penalty, see § 10.99

Cross-reference:

Privilege license tax, see Ch. 110

MESSAGE BUSINESS OPERATORS; LICENSING PROCEDURES

§ 113.20 LICENSE REQUIRED.

No person, corporation, partnership, or association shall operate a massage business as herein defined unless such person, partnership, corporation, or association shall have first applied for and been granted the privilege license provided by this section.

Penalty, see § 10.99

§ 113.21 APPLICATION; FORM AND CONTENTS.

(A) Every application for the privilege license prescribed herein shall be upon a form approved by the Town Manager and shall be filed with the Town Clerk.

(B) Every application shall be made under oath and shall contain the following information:

(1) *Name.* If the applicant is a person, the name and residence address of such person. If the applicant is a partnership, corporation, or association, the name and residence address of all persons having any legal or beneficial interest in such applicant;

(2) *Address.* The address of the premises where the massage business shall be located;

(3) *Prior convictions.* A complete statement of all convictions of any person whose name is required to be given in division (B)(1) above for any felony, or any violation of the law relative to prostitution, or involving moral turpitude;

(4) *Prior licensee revocations.* A complete statement of any revocation, by any governmental unit, of any license to operate a massage business or to engage in the business or profession of massage held by any person whose name is required to be given in division (B)(1) above;

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(5) *Statement of conviction.* A complete statement of any conviction of any person whose name is required to be given in division (B)(1) above; for violation of any statute, law, ordinance, or regulation of any government concerning the operation of a massage business or the business or profession of massage.

(6) *Other businesses.* The name and address of any massage business or other establishment owned or operated by any person whose name is required under division (B)(1) wherein the business or profession of massage is carried on;

(7) *Description of adjoining businesses.* A description of other businesses to be operated on the premises or adjoining premises owned or controlled by the applicant; and

(8) *The qualifications of the applicant.* These must be plainly stated and must be submitted with the required exhibits annexed to said application providing such qualifications.
Penalty, see § 10.99

§ 113.22 QUALIFICATIONS OF APPLICANTS.

An applicant hereunder, prior to making application for a license, must have the following qualifications.

(A) The applicant may be male or female and shall be required to provide written recommendations showing proof of good moral character; and, in case the applicant is a corporation, such corporation must be created in or domesticated by the laws of this state and the officers thereof shall provide written recommendations showing proof of good moral character.

(B) Each applicant must furnish a health certificate from a medical doctor which shall accompany such application as an exhibit. Should the applicant be a corporation, it shall furnish such certificate to cover its officers, agents, or employees who will actually be engaged in and working under said license. Each employee who begins work following the original issuance of license under this chapter shall likewise obtain a health certificate. A copy of the application and all certificates shall be furnished to the Police Department.
Penalty, see § 10.99

§ 113.23 INVESTIGATE REPORT; APPROVAL PROCEDURES.

(A) The Town Clerk shall transmit a copy of the application of qualification of applicant for license to the Police Department for an investigative report to determine compliance with all applicable town codes and building regulations and ordinances. The Police Department shall, within a reasonable time, not to exceed 45 days, report the results of the examination to the Town Clerk.

(B) An application in proper form, accompanied by all reports required by this section, shall be submitted to the Board of Commissioners, which shall approve such application if the Board determines that:

(1) The application contains no misstatement of facts;

(2) The applicant, or any person having any legal or beneficial ownership interest in the applicant, has not been convicted of a felony or any crime involving moral turpitude or sexual misconduct, including but not limited to G.S. §§ 14-177 through 14-202.1, Article 26 (offenses against public morality and decency) and G.S. §§ 14-203 through 14-208, Article 27 (prostitution), or of any section of this chapter or any federal statute relating to prostitution, or of any violation of any law or ordinance of any governmental unit concerning or related to the business or profession or massage;

(3) The applicant conforms to all requirements of applicable zoning, building, and fire prevention codes; and

(4) The applicant or any person having a legal or beneficial ownership interest in the applicant has not, for the three year period preceding the application, had a previously issued license for engaging in the business or profession of massage revoked.

§ 113.24 APPLICANT TO FURNISH HEALTH CERTIFICATE AND PROVIDE EMPLOYEE INFORMATION.

(A) Any applicant granted a license hereunder shall have the authority to train masseurs and masseuses under his or her supervision in his or her studio or establishment, provided that the licensee shall furnish to the Police Department, there to be kept by such Department, a health certificate of such employee from a medical doctor.

(B) It shall be the duty of all persons holding a license hereunder to file with the Chief of Police of the town the names of all employees, their home addresses, home telephone numbers, and places of employment. Changes in the list of employees with the names of new employees must be filed with the Chief of Police within seven days from the date of any change.

Penalty, see § 10.99

§ 113.25 ISSUANCE OF LICENSE.

Upon approval by the Board of Commissioners, and upon receipt of the required license fee, a privilege license shall be issued to the applicant.

MASSEURS AND MASSEUSES; LICENSING PROCEDURES**§ 113.40 LICENSE REQUIRED.**

No person shall engage in the business or profession of massage unless such person shall have first applied for and been granted the privilege license provided by this subchapter.
Penalty, see § 10.99

§ 113.41 APPLICATION.

(A) The application for the license required by this section shall be upon a form approved by the Town Manager and on file in the office of the Town Clerk. Such application shall be given under oath and shall contain the following information:

- (1) The name, age, and residence address of the applicant;
- (2) A complete statement of the previous business or occupation of the applicant for the two years immediately preceding the date of application, including any massage establishment experience;
- (3) A complete statement of all convictions of the applicant for any felony or any violation of the law relative to prostitution or involving moral turpitude or sexual misconduct;
- (4) A complete statement of any revocation of any license granted by any governmental unit to the applicant to engage in the business or profession of massage; and
- (5) The date and place of applicant's birth, the name of the applicant's parents and the residence or addresses of the applicant for five years immediately preceding the date of application.

(B) The applicant shall submit, as a part of the application required in division (A), the following. The additional information required by this division (B) shall be provided at the applicant's expense;

- (1) Fingerprints of the applicant taken by the Police Department;
- (2) Two recent photographs of the applicant's head and shoulders, of a size and quality to be prescribed by the Town Manager; and
- (3) A medical certificate signed by a physician, licensed to practice in the state, within seven days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician that the applicant is free from communicable diseases.
Penalty, see § 10.99

§ 113.42 INVESTIGATIVE REPORT; APPROVAL PROCEDURES.

(A) The Town Clerk shall transmit a copy of the application to the Police Department for an investigative report. The Police Department shall, within a reasonable time not to exceed 45 days, report the results of its investigation to the Town Clerk.

(B) An application in proper form shall be submitted to the Board of Commissioners together with all the reports required by this section. The Board shall approve such application if the Board determines:

- (1) That the applicant is at least 18 years of age;
- (2) That the application has no misstatements of fact;
- (3) The applicant has not been convicted of a felony or any crime involving moral turpitude or sexual misconduct, including but not limited to G.S. §§ 14-177 through 14-202.1, Article 26 (offenses against public morality and decency) and G.S. §§ 14-203 through 14-208, Article 27 (prostitution), or of any section of this chapter or of any federal statute relating to prostitution, or for violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage.
- (4) The applicant has not, for the three-year period prior to the application had a previously issued license for engaging in the business or profession of massage revoked;
- (5) The applicant is free from communicable disease as evidenced by the medical certificate required herein; and
- (6) The applicant has not been previously convicted of any violation of any provision of this chapter.

§ 113.43 ISSUANCE OF LICENSE.

Upon approval of the Board of Commissioners, and upon receipt of the required license fee, a privilege license shall be issued to the applicant.

§ 113.44 MEDICAL EXAMINATION.

The Board of Commissioners shall have the authority to direct any person licensed under this section to submit to a medical examination by a licensed physician approved by the Board. This authority shall be exercised only when the Board has reason to believe that any such person has contracted a communicable disease. Refusal to submit to such examination shall be grounds for revocation of such license as provided in § 113.45. Notwithstanding the provisions of this division, every person licensed under this chapter shall file and continue to file with the Town Clerk a new medical certificate with each

application for renewal of the license prescribed by this subchapter. Failure to file such updated certificates shall be grounds for revocation of such license as provided in § 113.45.

§ 113.45 CONDITIONS FOR REVOCATION BY BOARD.

(A) A license issued pursuant to this section shall be revoked by action of the Board of Commissioners if the Board determines:

- (1) The licensee has violated any provision in this chapter;
- (2) The licensee is afflicted with a communicable disease;
- (3) The licensee has failed to be examined by a licensed physician when required by the Board pursuant to § 113.44, or has failed to file any medical certificate by said § 113.44; and
- (4) The licensee has been convicted of a felony or any crime involving moral turpitude or sexual misconduct, including, but not limited to G.S. §§ 14-177 through 14-202.1, Article 26 (offenses against public morality and decency) and G.S. §§ 14-203 through 14-208, Article 27 (prostitution), or of violating any section of this chapter, or under any federal statute relating to prostitution, or for violation of any laws or ordinances of any governmental unit related to the business or profession of massage.

(B) Prior to revocation of any license under this section the procedures set forth in § 113.03 shall be followed.

CHAPTER 114: PEDDLERS, SOLICITORS, AND TRANSIENT VENDORS

Section

- 114.01 Definitions
- 114.02 Statement of information required for registration
- 114.03 Town policy on soliciting
- 114.04 Notice regulating soliciting
- 114.05 Duty of solicitors to ascertain notice
- 114.06 Prohibited solicitation

§ 114.01 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; 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.

§ 114.02 STATEMENT OF INFORMATION REQUIRED FOR REGISTRATION.

Each and every person doing business in the town as a peddler, solicitor, or transient vendor shall file with the Town Clerk, on a form to be provided for that purpose, a statement setting forth the following information:

Mount Gilead - Business Regulations

- (A) Name and address of individual filing 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 service to be provided;
- (F) The period of time during which the business will be carried on in town;
- (G) Description of the automobile or other vehicle to be used in the business, including the make, model, body style, color, and license number; and
- (H) Evidence of payment of all applicable privilege license taxes for the privilege of engaging in business within the corporate limits during the current year. Failure to pay such license taxes automatically disqualifies the applicant from being registered.

§ 114.03 TOWN POLICY ON SOLICITING.

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

§ 114.04 NOTICE REGULATING SOLICITING.

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

“NO SOLICITORS INVITED”

(B) The letters shall be at least 1/3-inch in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting, at the cost thereof.

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

§ 114.05 DUTY OF SOLICITORS TO ASCERTAIN NOTICE.

(A) It shall be the duty of every solicitor upon going onto any premises in the city upon which a residence is located to first examine the notice provided for in § 114.04 if any is attached, and be governed by the statement contained on the notice. If the notice states "NO SOLICITORS INVITED," then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

(B) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.
Penalty, see § 10.99

§ 114.06 PROHIBITED SOLICITATION.

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of § 114.04.

Penalty, see § 10.99

Mount Gilead - Business Regulations

CHAPTER 115: TAXICABS

Section

- 115.01 Definitions
- 115.02 Unlawful to operate without certificate
- 115.03 Application required; fee
- 115.04 Issuance of certificates
- 115.05 Term; renewal
- 115.06 Determination of convenience and necessity
- 115.07 Hearing; notices
- 115.08 Burden of proof
- 115.09 Revocation of license
- 115.10 Liability insurance required
- 115.11 Identification of vehicles
- 115.12 Rates and fares to be displayed in taxicab

§ 115.01 DEFINITIONS.

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

PERSONS. Shall mean and include both singular and plural, and shall also mean and include persons, individuals, firms, corporations, partnerships, and associations.

TAXICAB. Any motor vehicle seating nine or fewer passengers, operated 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 so being transported, and shall not include motor vehicles or motor vehicle carriers as defined in subsection (k) of G.S. § 62-103.

§ 115.02 UNLAWFUL TO OPERATE WITHOUT CERTIFICATE.

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 secure from the Board of Commissioners a certificate of convenience and necessity as hereinafter set forth.

Penalty, see § 10.99

§ 115.03 APPLICATION REQUIRED; FEE.

(A) Every person desiring to operate a taxicab upon and over the streets of the town shall file on forms supplied by the Town Clerk an application for certificate of convenience and necessity.

(B) The fee for a certificate of convenience and necessity issued pursuant to this chapter for a taxicab shall be established by the Board and available in the office of the Town Clerk.

§ 115.04 ISSUANCE OF CERTIFICATES.

The Board of Commissioners shall have power and it will be its duty to order certain certificates issued or refuse to issue certain certificates or to issue certificates for partial exercise of the rights granted only such certificate under such terms and conditions as in its judgment the public convince and necessity may require.

§ 115.05 TERM; RENEWAL.

A certificate shall constitute a franchise from the town for the operation of taxicabs within the town subject to the provisions of this chapter for one year, unless a shorter period of time is specified in the certificate. Applications for renewal shall be filed annually and hearing conducted as herein provided.

§ 115.06 DETERMINATION OF CONVENIENCE AND NECESSITY.

(A) In determining whether the public convenience and necessity require the franchising of such taxicab and taxicabs, the Board of Commissioners shall, among other things, take into consideration the following factors:

(1) Whether or not the public convenience and necessity require such proposed or additional taxicabs service within the town;

(2) The financial responsibility of the applicant and the likelihood of the proposed service being permanent, responsible, and satisfactory;

(3) The number and condition of equipment;

(4) The schedule of proposed rates, if required by the Board, to be charged;

(5) The number of taxicabs now operated and the demand for increased service, if any, and 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 said taxicabs;

(6) The experience of applicant in the taxicab business; and

(7) Such other relative facts as may be deemed necessary and advisable.

(B) Before making any decision with respect to the issuance of a certificate of convenience and necessity, the Board of Commissioners, or a committee thereof, shall make a full and complete investigation of all facts, and if it so desires, subpoena witnesses and utilize the services of the Chief of Police or any other officer or employee of the town.

§ 115.07 HEARING; NOTICES.

Each application for certificate of convenience and necessity shall be scheduled for a hearing not later than 20 days after the same 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 such hearing, such notification to be sent at least ten days before the date set for the hearing. The Town Clerk shall also, within the same time, notify all persons who at the time hold certificate of convenience and necessity for the operation of taxicabs within the municipality of the date and time for 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 hearing. The cost of such publication shall be paid by the applicant.

§ 115.08 BURDEN OF PROOF.

The burden of proof shall be upon the applicant to establish the existence of public convenience and necessity for the operation of the taxicab or taxicabs specified in his or her application and all other fact required for the granting of a certificate.

§ 115.09 REVOCATION OF CERTIFICATE.

(A) The Board of Commissioners may at any time after a public hearing revoke any certificate issued by authority of this chapter for any one, or more, of the following causes:

(1) Failure to operate the taxicab 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 required by law;

(4) Failure to pay to the town taxes or license fees imposed upon such taxicabs;

(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; and/or

(7) Willful failure to comply with any provision of this chapter or other ordinances or state laws relating to the operation of taxicabs, whether such ordinances and laws be now in force or hereafter enacted into ordinances and into laws.

(B) No certificate shall be revoked until the owner has had at least five days' notice by personal service or registered mail of the charges against him or her, and of the time and place of the hearing. If, after the hearing, it is found that the owner is guilty of one or more of the offenses listed herein, the Board shall have the power to revoke the certificate, or to condition a revocation upon compliance of its order within any time fixed by it.

§ 115.10 LIABILITY INSURANCE REQUIRED.

Each holder of a certificate of convenience and necessity under this chapter shall have in full force and effect on each vehicle being operated as a taxicab upon and over the streets of the town sufficient liability insurance with an insurance company licensed to operate and do business in the state. Compliance with insurance provisions is declared to be condition precedent to the operation of a taxicab upon and over the streets of the town.
Penalty, see § 10.99

§ 115.11 IDENTIFICATION OF VEHICLES.

Every holder of a certificate of convenience and necessity for one or more taxicabs under the provisions of this chapter shall display upon each of such taxicabs identification of his or her taxicab name, telephone number, and the fact that it operates under a franchise from the town. This identification shall be either by dome lights or lettering on the exterior of the automobile. Such lettering shall be at least three inches in height. In the event that it is necessary to replace any such taxicab by another automobile, then a permit may be obtained from the town for the temporary replacement of such vehicle.

§ 115.12 RATES AND FARES TO BE DISPLAYED IN TAXICAB.

Every holder of a certificate of convenience and necessity under this chapter shall cause to be displayed in each taxicab under his or her control in conspicuous position the same shall be plainly visible to passengers a schedule of rates and fares authorized and required to be charged in accordance with the schedule established by the Board of Commissioners, and available in the office of the Town Clerk.

CHAPTER 116: ALCOHOLIC BEVERAGE SALES

Section

116.01 Sunday sales of beer and wine unlawful

§ 116.01 SUNDAY SALES OF BEER AND WINE UNLAWFUL.

It shall be unlawful for any person, firm, or corporation to sell or offer for sale any beer, wine, or malt beverages within the boundaries of the town from 12:00 a.m., midnight, on Sunday to 12:00 a.m., midnight, Monday.

Penalty, see § 10.99

TITLE XIII: GENERAL OFFENSES

Chapter

- 130. OFFENSES AGAINST PROPERTY, PUBLIC PEACE,
AND ORDER
- 131. DRUG AND ALCOHOL RELATED OFFENSES
- 132. WEAPONS OFFENSES

Mount Gilead - General Offenses

CHAPTER 130: OFFENSES AGAINST PROPERTY, PUBLIC PEACE, AND ORDER

Section

Offenses Against Public Property

- 130.01 Damaging public property
- 130.02 Littering
- 130.03 Curfew for minors

Disorderly Public Conduct

- 130.15 Begging
- 130.16 Public urination and defecation

- 130.99 Penalty

OFFENSES AGAINST PUBLIC PROPERTY

§ 130.01 DAMAGING PUBLIC PROPERTY.

(A) It shall be unlawful to deface, vandalize, or otherwise damage any public property in the town.

(B) No person shall injure, tamper with, remove, paint upon, or deface any bridge, culvert, ditch, and drain, sign, sign post, street light, traffic signal, bulletin board, or other municipal property upon the streets and sidewalks or elsewhere except employees of the town in the performance of their duties. Penalty, see § 130.99

§ 130.02 LITTERING.

(A) (1) It shall be unlawful for any person, firm, or corporation, or the servants, agents, or employees thereof, to place or leave to be placed or left temporarily or permanently any trash, refuse, garbage, scrapped automobile, scrapped truck or parts thereof, on the streets or other public areas in the town.

Mount Gilead - General Offenses

(2) This section shall not prohibit the use of garbage cans or refuse containers placed for the purpose of pick-up by city garbage or trash trucks, nor the placing of trash or refuse in designated places for the purpose of being picked up by garbage or refuse trucks on the days designated for such pickup.

(B) It shall be unlawful for any person, firm, or corporation to throw or deposit upon any street or sidewalk, or upon any private property, except with written permission of the owner any trash, refuse, garbage, building material, cans, bottles, broken glass, paper, or any other type of litter.

(C) It shall be unlawful for any person while a driver or a passenger in a vehicle to throw or deposit litter upon any street or other public place within the town, or upon private property.
Penalty, see § 130.99

§ 130.03 CURFEW.

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

(1) ***CURFEW HOURS.***

(a) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and

(b) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

(2) ***EMERGENCY.*** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes but is not limited to a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) ***ESTABLISHMENT.*** Any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(4) ***GUARDIAN.***

(a) A person who, under court order, is the guardian of the person of a minor; or

(b) A public or private agency with whom a minor has been placed by a court.

(5) ***MINOR.*** Any person under 17 years of age.

(6) ***OPERATOR.*** Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(7) **PARENT.** A person who is:

(a) A natural parent, adoptive parent, or step-parent of another person; or

(b) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(8) **PUBLIC PLACE.** Any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(9) **REMAIN.**

(a) Linger or stay; or

(b) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(10) **SERIOUS BODILY INJURY.** Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(B) *Offenses.*

(1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.

(2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

(3) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C) *Exemptions.*

(1) It is a exemption to division (B) that the minor was:

(a) Accompanied by the minor's parent or guardian;

(b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(c) In a motor vehicle involved in interstate travel;

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(d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(e) Involved in an emergency;

(f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

(g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

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

(i) Married or had been married or had disabilities of minority removed in accordance with state law.

(2) It is a defense to prosecution under division (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) *Enforcement.* Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, including any investigation additional to the actions required by this division (D) as a reasonable person would deem necessary, no exemption in division (C) is present.

DISORDERLY PUBLIC CONDUCT

§ 130.15 BEGGING.

It shall be unlawful for any person to beg or solicit alms in or on the public streets and sidewalks or other public places in the town, or in the entrances to or corridors of any public buildings in the town without first securing a permit from the Town Clerk.

Penalty, see § 130.99

Statutory reference:

Authority to regulate begging, G.S. § 160A-179

§ 130.16 PUBLIC URINATION AND DEFECATION.

It shall be unlawful for any person to deposit, by means of urination or defecation, any human waste material upon any public street, sidewalk, right-of-way, alley, or parking lot. For purposes of this section, *HUMAN WASTE MATERIAL* shall be defined as human urine or human fecal material discharged from the body.

Penalty, see § 130.99

§ 130.99 PENALTY.

(A) Unless specifically provided, any person who shall violate any provision of this chapter shall be punished as set forth in § 10.99.

(B) Any person who violates the provisions of § 130.02 shall be punished by a fine not exceeding \$500 or imprisoned not exceeding 30 days, or both, for each offense. The placing, discarding, disposing, or leaving of articles forbidden by § 130.02 shall, for each day or portion thereof the articles or matter are left, constitute a separate offense.

(C) Any person who violates the provisions of §§ 130.30 through 130.37 shall be guilty of a misdemeanor and shall be fined not more than \$500, or imprisoned for not more than 30 days.

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CHAPTER 131: DRUG AND ALCOHOL RELATED OFFENSES

Section

- 131.01 Consumption and possession of alcoholic beverages in public places
- 131.02 Loitering for purpose of engaging in drug related activity

§ 131.01 CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES.

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

MALT BEVERAGE. Beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage containing at least 0.5% and not more than 6% alcohol by volume.
(G.S. § 18B-101(9))

OPEN CONTAINER. A container whose seal has been broken or a container other than the manufacturer's unopened original container.

PUBLIC STREET. Any highway, road, street, avenue, boulevard, alley, bridge, or other way within and/or under the control of the town and open to public use including sidewalks of any such street.

UNFORTIFIED WINE. Wine that has an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet, or dextrose sugar.
(G.S. § 18B-101(15))

(B) *Consumption on the public streets and on municipal property prohibited.* It shall be unlawful for any person who is not an occupant of a motor vehicle to consume malt beverages and/or unfortified wine on public streets. Furthermore, it shall be unlawful for any person to consume malt beverages and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied, or controlled by the town including but not limited to public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts, and other athletic fields.

(C) *Possession of open containers on the public streets and on municipal property prohibited.* It shall be unlawful for any person who is not an occupant of a motor vehicle to possess any open container of malt beverage and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any

person to possess any open container of malt beverage and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied, or controlled by the town, including but not limited to public buildings and the ground appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts, or other athletic fields.

(D) *Possession during special events prohibited.* It shall be unlawful for any person to possess malt beverages and/or unfortified wine on public streets, alleys, or parking lots which are temporarily closed to regular traffic for special events, unless the governing body adopts a resolution making other provisions for the possession of malt beverages and/or unfortified wine at the special event.

Penalty, see § 10.99

Cross-reference:

Sunday sales of beer and wine unlawful, see § 116.01

§ 131.02 LOITERING FOR PURPOSE OF ENGAGING IN DRUG RELATED ACTIVITY.

(A) For the purpose this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC PLACE. Any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot or a motor vehicle in or on any of those places, or any property owned by the town.

(B) It shall be unlawful for a person to remain or wander about in a public place under circumstances manifesting the purpose to engage in a violation of the State Controlled Substance Act, G.S. Chapter 90, and Article 5. Such circumstances are as follows:

(1) Repeatedly beckoning to, stopping, or attempting to stop passersby, or repeatedly attempting to engage passersby in conversation;

(2) Repeatedly stopping or attempting to stop motor vehicles;

(3) Repeatedly interfering with the free passage of other persons;

(4) Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is engaged in an unlawful drug-related activity;

(5) Such person repeatedly passes to or receives from passersby, whether on foot or from a vehicle, money or objects;

(6) Such person takes flight upon the approach or appearance of a law enforcement officer;
and/or

(7) Such person is at a location frequented by persons who use, possess, or sell drugs.

(C) Violation of this section shall be a misdemeanor.
(Ord. passed 6-6-1994)

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CHAPTER 132: WEAPONS OFFENSES

Section

- 132.01 Discharge of firearms or other weapons
- 132.02 Concealed weapons
- 132.03 Firebombs prohibited

§ 132.01 DISCHARGE OF FIREARMS OR OTHER WEAPONS.

It shall be unlawful for any person to fire or discharge any rifle, gun, pistol, pellet gun, air gun, air pistol, or air rifle within the town, on or off his or her premises, in sport or amusement.
Penalty, see § 10.99

§ 132.02 CONCEALED WEAPONS.

(A) *Posting of signs required.* The Town Manager is authorized and instructed to post conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed, or controlled by the town, as well as the appurtenant premises to such buildings indicating that carrying a concealed handgun is prohibited therein.

(B) *Location of signs.* Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The Town Manager shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.

Penalty, see § 10.99

§ 132.03 FIREBOMBS PROHIBITED.

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

FIREBOMB. Any type of object designed or constructed so that upon being propelled it will explode or ignite its area of impact.

MOLOTOV COCKTAIL. Any breakable container or any container which is designed in a manner that upon being propelled it will at impact empty its contents, which are a flammable fluid or substance, and which is fitted with a fuse or wick.

(B) It shall be unlawful for any person or persons to manufacture, possess, transport, or use any Molotov cocktail or any other firebomb.

(C) It shall be unlawful for any person or persons to possess all the items or materials needed to manufacture Molotov Cocktails or other firebombs, other than on his or her or their premises. The provisions of this section shall be cumulative and in addition to any other ordinance or general statute on this subject.

(D) The Chief of Police shall be authorized to enforce this section.
Penalty, see § 10.99

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS**
- 151. MINIMUM HOUSING CODE**
- 152. NON-RESIDENTIAL MAINTENANCE AND SAFETY CODE**
- 153. WATER SUPPLY WATERSHED PROTECTION**
- 154. ZONING CODE**
- 155. LAND USE PLAN**
- 156. FLOOD DAMAGE PREVENTION**

Mount Gilead - Land Usage

CHAPTER 150: BUILDING REGULATIONS

Section

General Provisions

150.01 Moratoria

Repair, Closing or Demolition of Abandoned Structures

- 150.15 Finding; intent
- 150.16 Duties of Building Inspector
- 150.17 Powers of the Building Inspector
- 150.18 Standards for enforcement
- 150.19 Procedure for enforcement
- 150.20 Methods of service of complaints and orders
- 150.21 In rem action by Building Inspector; placarding
- 150.22 Costs a lien on premises
- 150.23 Alternative remedies

GENERAL PROVISIONS

§ 150.01 MORATORIA.

(A) The town may adopt temporary moratoria on any development approval required by law. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify or resolve such conditions. Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the Board of Commissioners shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. § 160A-364. Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to G.S. § 160A-417 is outstanding, to any project for which a conditional use permit application or special use permit application has been accepted, to development set forth in a

Mount Gilead - Land Usage

site-specific or phased development plan approved pursuant to G.S. § 160A-385.1, to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the town prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the town prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium. Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

(1) A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the town and why those alternative courses of action were not deemed adequate;

(2) A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium;

(3) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium; and

(4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the town during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

(B) No moratorium may be subsequently renewed or extended for any additional period unless the town shall have taken all reasonable and feasible steps proposed to be taken by the town in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in division (A)(1) through (4) of this section, including what new facts or conditions warrant the extension.

(C) Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the town shall have the burden of showing compliance with the procedural requirements of this division. (See G.S. § 160A-381(e))

(Ord. 2006-11, passed 5-9-2006)

REPAIR, CLOSING OR DEMOLITION OF ABANDONED STRUCTURES

§ 150.15 FINDING; INTENT.

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

(Ord. passed 7-10-1978)

§ 150.16 DUTIES OF BUILDING INSPECTOR.

(A) The Building Inspector is hereby designated as the town officer to enforce the provisions of this subchapter.

(B) It shall be the duty of the Building Inspector:

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

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

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

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

(Ord. passed 7-10-1978)

§ 150.17 POWERS OF THE BUILDING INSPECTOR.

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

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

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

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

(Ord. passed 7-10-1978)

§ 150.18 STANDARDS FOR ENFORCEMENT.

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

- (1) The attraction of insects or rodents;
- (2) Conditions creating a fire hazard;
- (3) Dangerous conditions constituting a threat to children; or
- (4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.

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

- (1) Holes or cracks in the structure's floors, walls, ceilings or roof which might attract or admit rodents and insects, or become breeding places for rodents and insects;
- (2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects or become breeding places for rodents and insects;
- (3) Violations of the State Building Code, the State Electrical Code, the Fire Prevention Code which constitutes a fire hazard in such structures;
- (4) The collection of garbage, rubbish or combustible material which constitute a fire hazard in such structure;
- (5) The use of such structure or nearby grounds or facilities by children as a play area;
- (6) Violations of the State Building Code which might result in danger to children using the structure or nearby grounds or facilities as a play area; and

(7) Repeated use of such structure by transients and vagrants, in the absence of sanitary facilities, for living, sleeping, cooking or eating.
(Ord. passed 7-10-1978)

§ 150.19 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the Inspector by at least five residents of the town charging that any structure exists in violation of this subchapter or whenever it appears to the Inspector, upon inspection, that any structure exists in violation hereof, he or she shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such structure a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten or more than 30 days after the serving of said complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such structure. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(B) *Procedure after hearing.*

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

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

(C) *Failure to comply with order.*

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

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

(D) *Petition to Superior Court by owner.* Any person aggrieved by an order issued by the Inspector shall have the right, within 30 days after issuance of the order to petition the Superior Court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. § 160A-466(f).

(Ord. passed 7-10-1978)

§ 150.20 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

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

(Ord. passed 7-10-1978)

§ 150.21 IN REM ACTION BY BUILDING INSPECTOR; PLACARDING.

(A) After failure of an owner of a structure to comply with an order of the Inspector issued pursuant to the provisions of this subchapter, and upon adoption by the Board of Commissioners of an ordinance authorizing and directing him or her to do so, as provided by G.S. § 160A-443(5) and § 150.19(C) of this subchapter, the Inspector shall proceed to cause such structure to be removed or demolished, as directed by the ordinance of the Board of Commissioners and shall cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(B) Each such ordinance shall be recorded in the office of the 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).

(Ord. passed 7-10-1978)

§ 150.22 COSTS A LIEN ON PREMISES.

As provided by G.S. § 160A-446(6), the amount of the cost of any removal or demolition caused to be made or done by the Inspector pursuant to this subchapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Chapter 160A, Article 10.

(Ord. passed 7-10-1978)

§ 150.23 ALTERNATIVE REMEDIES.

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

(Ord. passed 7-10-1978)

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CHAPTER 151: MINIMUM HOUSING CODE

Section

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§ 151.01 FINDING; PURPOSE.

(A) Pursuant to G.S. § 160A-441, it is hereby declared that there exists in the town, housing which is unfit for human habitation due to:

- (1) Dilapidation;
- (2) Defects increasing the hazards of fire, accidents and other calamities;
- (3) Lack of ventilation, light and sanitary facilities; or

(4) Other conditions rendering such dwellings unsafe or unsanitary for the occupants thereof or of neighboring dwellings or for other residents of the town.

(B) It is further declared that the existence of such substandard or unfit housing is dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of, the residents of the town.

(C) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. Chapter 160A, Article 19, Part 6, it is the purpose of this subchapter to establish and enforce minimum standards of fitness for the existence and initial and continued occupancy of all buildings used for human habitation, and for the protection of occupants of neighboring housing and other residents of the town, as expressly authorized by G.S. § 160A-444.
(Ord. passed 7-13-2004)

§ 151.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Whenever the words *HOUSING*, *DWELLING*, *DWELLING UNIT*, *ROOMING HOUSE*, *ROOMING UNIT*, and *PREMISES* are used in this subchapter, they shall be construed as though they were followed by the words "or any part thereof."

ACCESSORY STRUCTURE. Any building or structure used or intended to be used in conjunction with housing but not used for habitation, whether attached to or detached from a primary structure, including, but not limited to, sheds, storage buildings, carports and garages, and any attached fence.

BASEMENT. A portion of any housing, 40% of the habitable space of which is located below finished grade level, having direct access to light and air from windows located above grade.

CELLAR. A portion of any housing which is located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

DETERIORATED. Housing which is substandard or unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this subchapter at a cost not in excess of 50% of its value, as determined by finding of the Inspector.

DILAPIDATED. Housing which is substandard or unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this subchapter except at a cost in excess of 50% of its value, as determined by finding of the Inspector.

DWELLING. Any building or structure, or part thereof, used or occupied for human habitation or intended to be so used, and includes any accessory structures and appurtenances belonging thereto or usually enjoyed therewith. Notwithstanding the preceding, manufactured homes, as defined in G.S. § 143-145(7), are designed and constructed pursuant to standards other than those governing structures

having permanent foundations. Therefore, manufactured homes shall not be subject to all of the standards contained herein; however, any conditions in a manufactured home that render housing unfit under this section shall constitute a violation of this subchapter, and any combination of substandard conditions which, in the judgment of the inspector, renders a manufactured home dangerous or injurious to the health, safety or morals of the occupants of the home, nearby housing or other residents of the town shall constitute a violation of this subchapter. Additionally, the term *DWELLING* does not include any manufactured home which is used solely for a seasonal vacation purpose.

DWELLING UNIT. Any habitable room or group of habitable rooms used or intended for occupation as a single housekeeping unit, with facilities which are used or intended to be used for living, sleeping, cooking and eating.

EXIT. A clear and unobstructed way of departure from the interior of housing to the exterior at street or grade level.

EXTERMINATION. The control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination methods approved by the Inspector.

FLUE. An enclosed pipe, duct or passageway used only for the transmission of heat or the products of combustion.

GARBAGE. The organic waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM* or *HABITABLE SPACE. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, communicating corridors, wall areas, storage spaces, and any area beneath a ceiling of less than four and one-half feet in height.

HOUSING. Any residential building, dwelling, dwelling unit, multiple dwelling, apartment, rooming house, boardinghouse or similar building or structure, or part thereof, together with the premises of such building, and other appurtenances thereto.

IMPERVIOUS TO WATER (AS TO FLOORS). A clean, smooth floor, without cracks or holes, made of terrazzo, ceramic, asphalt or rubber tile, smooth concrete, linoleum or other similar material, or made of wood, and, if made of wood, then with tightly fitting joints, covered with varnish, lacquer or other similar water-resistant coating.

INFESTATION. The presence of any insects, rodents or other pests within or around housing in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

INSPECTOR. The Director of Inspections and Permits Division of the Department of Development services of the town, or a successor division thereto, and his or her designee(s). In addition to the powers

and responsibilities granted in this chapter, the Inspector shall have and may exercise the powers and responsibilities of public officer set forth in G.S. § 160A-441 et seq.

MULTIPLE DWELLING. Any housing containing more than two dwelling units.

OCCUPANT. Any person living, sleeping, cooking or eating in, or having actual possession of, housing.

OPERATOR. Any person who has charge, care or control of a building, or part thereof, in which housing is let.

OWNER. Any person who is the holder of title in fee simple to housing, and every mortgagee of record.

PARTY OR PARTIES IN INTEREST. All persons who have interest of record in housing, and any persons who are in possession thereof.

PLUMBING. Supplied fixtures, as defined herein, together with all connections to water, sewer or gas lines within the property lines of the premises, employed for use of water, sewer or gas utilities, including, but not limited to, gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents and traps.

PREMISES. A lot, plot or parcel of land, including the buildings or structures thereon, or any part thereof, except land occupied by streets, alleys or public thoroughfares.

PUBLIC AUTHORITY. Any housing authority or any officer who is in charge of any department or branch of the governments of the town, county, or the state relating to health, fire or building regulations or other activities concerning housing in the town.

REMOVE AND DEMOLISH. The demolition and removal of the entire building or structure, leaving the premises free and clear of any debris, any excavation properly filled in, and with no holes or pockets which may retain water.

ROOMING HOUSE. Any dwelling or that part of any dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not the spouse, parent, child, sibling, or spouse or child of one of these, of the owner or operator.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RUBBISH. Combustible or noncombustible waste materials, except garbage, including, but not limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass or dust.

STRUCTURE. That which is built or constructed.

SUBSTANDARD. Any condition existing in any housing which does not meet the standards of fitness of this subchapter.

SUPPLIED. Paid for, furnished, or provided by, or under the control of, the owner or operator.

UNFIT FOR HUMAN HABITATION or **UNFIT.** Housing which contains any of the following conditions, which conditions the town council finds render any housing dangerous or injurious to the health, safety or morals of the occupants of the housing, the occupants of neighboring housing, or other residents of the town:

- (1) Interior walls or vertical studs which seriously list, lean or buckle to such an extent as to render the building unsafe;
- (2) Supporting member or members which show 33% or more damage or deterioration, enclosing or outside wall or covering which shows 50% or more of damage or deterioration;
- (3) Floors or roof which have improperly distributed loads, which are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;
- (4) Such damage by fire, wind or other causes as to render the building unsafe;
- (5) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or morals of the occupants or other people in the town;
- (6) Inadequate facilities for egress in case of fire, accident or other calamity;
- (7) Defects significantly increasing hazards of fire, accident or other calamity;
- (8) Lack of adequate ventilation, light, heating or sanitary facilities to such an extent as to endanger the health, safety, morals or general welfare of the occupants or other residents of the town;
- (9) Lack of proper electrical, heating or plumbing facilities required by this subchapter which constitute a health or safety hazard;
- (10) Lack of adequate weatherization as required by § 151.04;
- (11) Lack of an operable smoke detector as required by § 151.11; or
- (12) Any combination of other conditions that are substandard under this subchapter which, in the judgment of the Inspector, renders any housing dangerous or injurious to the health, safety or morals of the occupants of the housing, the occupants of neighboring housing, or other residents of the town, including, but not limited to, defects therein increasing the hazards of fire, accident or other calamities;

lack of adequate ventilation, light or sanitary facilities; dilapidation disrepair; structural defects; or uncleanliness.

VACATE AND CLOSE. That housing shall be secured to prevent entry, including all outer doors firmly locked and basement, cellar and windows barred or boarded. It also means that such housing shall not again be used for human habitation until all violations are corrected and an inspection is conducted by the Inspector to verify compliance with this subchapter.

VALUE. The total value of any structure which is the subject of an order hereunder, as appraised for ad valorem tax purposes on the duly adopted and recorded tax rolls of the county on the date of the Inspector's initial order pursuant to § 151.14 of this chapter.

VENTILATION. The insufflations and the exsufflation of air by natural or mechanical means, to and from housing.

WEATHER TIGHT. So constructed that the housing resists weather and excludes precipitation and prevents the infiltration of air.
(Ord. passed 7-13-2004)

§ 151.03 FITNESS.

(A) All housing used as human habitation, or held out for use as human habitation, shall comply with all of the minimum standards of fitness for human habitation set forth as §§ 151.04 through 151.11 of this chapter.

(B) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any housing which does not comply with all of the minimum standards of fitness for human habitation set forth as §§ 151.04 through 151.11 of this chapter.
(Ord. passed 7-13-2004) Penalty, see § 151.99

§ 151.04 STRUCTURAL CONDITION.

The following standards shall constitute the minimum standards for structural condition of any housing:

(A) *Foundations.*

(1) A foundation wall shall support the building at all points and shall be free of holes and cracks which would admit rodents, water or dampness to the interior of the housing or lessen the capability of the foundation to support the housing.

(2) Footings shall be sound and have adequate bearing capacity.

(3) Piers shall be sound with no loose mortar or masonry.

(4) No pier in which the plumb line from top center falls outside the middle one-third of the pier base shall be allowed.

(5) No wood stiff-knees or other improper piers shall be allowed.

(6) The space between the ground and the first floor of all housing shall be enclosed with masonry or other permanent material of at least one-half inch in thickness, except where underpinning is not consistent with the architecture of the housing, as determined by the Inspector. Where wood is used as underpinning, such wood, in addition to the conditions set out above, shall be weather-treated and permanently affixed. Where no underpinning is required, the ground level floor shall be substantially weather tight and insulated to R-19 value.

(7) Crawl space shall be graded so as to prevent any standing water.

(8) A crawl space access hole having a door shall be provided to any under-floor space in all housing.

(9) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

(B) *Floors.*

(1) Floors shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(2) There shall be no use of the ground for floors, nor shall there be wood floors on the ground.

(3) There shall be no decayed, termite-damaged, fire-damaged, broken, overloaded or sagging sills that adversely affect the structural integrity of the housing framing system.

(4) Sills shall be properly supported and reasonably level.

(5) Joists shall not be decayed, overloaded, sagging or broken so as to adversely affect the structural integrity of the floor framing system.

(6) Flooring shall be weather tight and watertight without holes or cracks which permit excessive air to penetrate rooms.

(7) Flooring shall be reasonably smooth. There shall be no decayed or fire-damaged material so as to adversely affect the structural integrity of the flooring system.

(8) There shall be no loose flooring.

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(9) Floors shall be reasonably level.

(10) Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean and sanitary condition. The floor surfaces shall be covered with a nonabsorbent material.

(C) *Walls, exterior.*

(1) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.

(2) There shall be no wall in which the plumb line from the top to the floor exceeds three inches.

(3) All exterior surfaces shall be structurally sound, waterproof, weatherproof and vermin proof.

(4) All exterior finishes shall be weather tight with no holes, cracks or rotted boards which permit outside air or water to penetrate rooms.

(5) Windows shall be easily operable, shall have panes without cracks or holes, and the sash shall fit properly.

(6) There shall be no deterioration due to the elements because of lack of preventive maintenance consisting of painting, waterproofing and repair.

(D) *Walls, interior.*

(1) Interior walls of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(2) The interior finish shall be free of holes and cracks which permit air excessively to penetrate rooms.

(3) No loose plaster, loose boards or other loose wall materials shall be allowed.

(4) No studs shall be rotted or termite-damaged.

(5) No broken or cracked studs or other broken or cracked structural members shall be allowed.

(6) All walls, woodwork, doors and windows shall be kept clean and free of any flaking, loose or peeling paint.

(7) Cardboard, newspaper or other highly combustible or improper wall finish is prohibited.

(E) *Ceilings.*

(1) Ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(2) No joists shall be rotted, broken or sagging or have improperly supported ends.

(3) There shall be no holes or cracks which permit air excessively to penetrate rooms.

(4) No loose plaster, loose boards, loose sheetrock or other loose ceiling finish shall be permitted.

(5) There shall be no cardboard or other highly combustible material used as a ceiling finish.

(6) All ceilings shall be kept clean and free of any flaking, loose or peeling paint and paper.

(F) *Roof.*

(1) The roof and flashings shall be constructed and maintained so as to be weather tight and watertight.

(2) Rafters shall not be rotted, broken, sagging or have improperly supported ends.

(3) Attics shall be properly vented.

(4) No rotted, loose or sagging sheathing shall be allowed.

(5) No loose roof covering shall be allowed, nor shall there be allowed any holes or leaks which could cause damage to the structure or rooms.

(6) Walls and chimneys shall have proper flashing.

(7) No rafters shall be damaged by fire.

(G) *Porches, landings and the like.*

(1) Foundation, floor, ceiling and roof shall be equal to standards as set forth above, except sills and joists need not be level if providing drainage of floors; floors need not be weather tight; floors

need not be level if providing for drainage; ceiling height shall not be less than seven feet, zero inches and attic need not be vented.

(2) Posts and railings shall not be rotted or termite-damaged.

(3) Every porch, terrace or entrance platform located at least 30 inches above the adjacent finished grade shall be equipped with adequate railings.

(H) *Stairs and steps.*

(1) Stairs and steps shall be free of holes, grooves and cracks that are large enough to constitute accident hazards.

(2) Stairwells and flights of stairs, attached to or within a dwelling unit, that contain more than four risers shall have rails not less than two feet, six inches measured vertically from the nose of the treads to the top of the rail.

(3) Every rail shall be firmly fastened and maintained in good condition.

(4) No flight of stairs settled more than one inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.

(5) No rotting, sagging or deteriorated supports shall be allowed.

(6) Stairs shall be plumb, level and treads shall be uniform in width and risers uniform in height, sound and securely fastened to structure. A slight uniform tilt of the treads to aid in the runoff of water is permissible for exterior steps.

(I) *Egress.* Adequate facilities for egress in case of fire or panic shall be provided.

(J) *Chimneys.* There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

(K) *Basement walls.* Basement walls shall be constructed and maintained so as to be weather tight and watertight.

(L) *Doors and windows.* All doors and windows exposed to the weather shall be constructed and maintained so as to be weather tight and watertight.

(Ord. passed 7-13-2004) Penalty, see § 151.99

§ 151.05 BASIC PLUMBING, HEATING AND ELECTRICAL EQUIPMENT AND FACILITIES.

(A) *Plumbing system.*

(1) All housing shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) *Heating system.* All housing shall have facilities for providing heat in accordance with the following:

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 68° F. measured at a point three feet above the floor at an outside temperature of 20° F.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, all housing shall be provided with sufficient fireplaces, chimneys, flues, gas vents or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of 68° F. measured three feet above the floor at an outside temperature of 20° F.

(C) *Electrical system.*

(1) All housing shall be wired for electric lights and convenience receptacles.

(2) Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the state electrical code.

(3) There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture.

(4) In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles.

(5) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient, operable by means of conveniently located light switches.

(6) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the state electrical code.

(7) No receptacles, ceiling fixtures or other fixtures shall be broken or hanging loose.

(8) There shall be no bare wires, open joints or spliced cables.

(9) No branch circuits shall be overloaded.

(Ord. passed 7-13-2004) Penalty, see § 151.99

§ 151.06 LIGHT, VENTILATION AND SCREENING.

(A) *Window area.*

(1) Every habitable room shall have at least one window or skylight facing directly to the outdoors.

(2) The minimum total window area for every habitable room shall measure eight square feet or 8% of the floor area, whichever is greater.

(3) Whenever walls or other portions of structures face a window of any room and such light-obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area.

(4) Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

(B) *Operable windows, ventilators.*

(1) Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room.

(2) The total operable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.

(C) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall

be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(D) *Windows and doors.* Windows and doors shall be reasonably weather tight, shall have no broken glass, and shall have adequate operable locks and hardware.

(E) *Screening.*

(1) During the period of April 1 to October 1, inclusive, for protection against mosquitoes, flies and other insects, every door opening from any housing directly to outdoor space shall have supplied screens and a self-closing device, and every operable window or other device opening to outdoor space used, designed or intended to be used for ventilation shall likewise be supplied with screens.

(2) Habitable space which is mechanically ventilated year-round by permanently installed central air conditioning equipment shall be exempt from this standard.

(F) *Basement and cellar screening.* Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance. (Ord. passed 7-13-2004) Penalty, see § 151.99

§ 151.07 SPACE, USE AND LOCATION.

Every dwelling unit shall contain at least the minimum room size in each habitable room required by the State Residential Building Code. In addition:

(A) *Principal room.* A living or principal room shall contain not less than 150 square feet.

(B) *Kitchens.* Kitchens shall contain not less than 50 square feet and a kitchen-dining room combination, if any, shall contain not less than 100 square feet.

(C) *First bedrooms.* The first bedroom shall contain not less than 100 square feet.

(D) *Other bedrooms.* All other bedrooms, if any, shall contain not less than 70 square feet each.

(E) *Minimum room size.* Each habitable room shall have at least 70 square feet.

(F) *Minimum floor area.* Every dwelling unit shall contain a total floor area of at least 150 square feet of habitable space for the first occupant, at least 100 square feet of additional habitable floor area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant over the number of four occupants. Children less than one year of age shall not be counted.

(G) *Minimum sleeping area.* In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(H) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

(I) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area; however, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

(J) *Cellars.* Cellars shall not be used for living purposes.

(K) *Basements.* Basements shall not be used for living purposes, unless:

- (1) The floor and walls are impervious to leakage of underground and surface runoff water;
- (2) The total window area, total operable window area and ceiling height are equal to those required for habitable rooms; and
- (3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area.

(Ord. passed 7-13-2004) Penalty, see § 151.99

§ 151.08 MAINTENANCE.

(A) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof, shall be kept in sound condition and good repair, shall be capable of affording privacy, and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

(C) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be substantially weather tight, watertight and rodent proof and shall be kept in sound working condition and good repair.

(D) *Stairs, porches.* Every outside and inside stair, porch and any railing or other appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.

(E) *Egress.* Safe, continuous and unobstructed exit shall be provided from every dwelling unit or rooming unit to the external street or grade level as required by the State Residential Building Code.

(F) *Bathroom, laundry room and kitchen floors.* Every bathroom, water closet compartment, laundry room and kitchen floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.

(G) *Supplied facilities.* Every supplied facility, piece of equipment, or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.
(Ord. passed 7-13-2004) Penalty, see § 151.99

§ 151.09 SANITATION.

(A) *Rubbish and garbage storage and disposal.*

(1) Yards and courts within the premises of any housing shall be kept clean and free of rubbish, trash, garbage, debris, litter or unstacked wood.

(2) All housing shall be supplied with approved containers and covers for storage of rubbish, as required by town ordinances, and the owner of such housing shall be responsible for the removal of rubbish.

(3) Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an approved outside garbage can as required by town ordinances.

(B) *Drainage.* Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.

(C) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(D) *Infestation.*

(1) Every occupant of housing consisting of a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises.

(2) Any occupant of housing containing more than one dwelling or rooming unit shall be responsible for such extermination whenever his unit is the only one infested.

(3) If infestation is caused by failure of the owner to maintain housing in a rodent proof or reasonably insect proof condition, or if infestation exists in two or more of the dwelling or rooming units in any housing in the shared or public parts of any housing containing two or more units, extermination shall be the responsibility of the owner.

(Ord. passed 7-13-2004) Penalty, see § 151.99

§ 151.10 ROOMING HOUSES; ADDITIONS, EXCEPTIONS.

All of the provisions, minimum standards and requirements of this chapter shall be applicable to rooming houses and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following divisions:

(A) *Water closet, hand lavatory and bath facilities.* At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house, or for each six residents of a rooming house if more than one person occupies a room in a rooming house, wherever these facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(B) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(C) *Sanitary conditions.* The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house. He or she shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

(D) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by this section shall be located within the rooming house and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the rooming house or through any other room therein.

(Ord. passed 7-13-2004) Penalty, see § 151.99

§ 151.11 RESPONSIBILITIES OF OWNERS, OPERATORS AND/OR OCCUPANTS.

(A) *Public areas.* Every owner of housing containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the housing and premises thereof.

(B) *Cleanliness.* Every occupant of housing shall keep in a clean and sanitary condition that part of the housing and premises thereof which he occupies and controls.

(C) *Rubbish and garbage.* Every occupant of housing shall dispose of all his or her rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) *Supplied plumbing fixtures.* Every occupant of housing shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(E) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface, or impair any of the facilities or equipment or any part of the structure of the housing occupied.

(F) *Smoke detectors.*

(1) The owner or operator of every occupied dwelling or dwelling unit shall provide each dwelling or dwelling unit with at least one operable smoke detector installed outside the sleeping areas, to be located on or near the ceiling.

(2) Detectors shall be electrically or battery operated and shall provide an audible alarm when activated.

(3) For purposes of this subsection, the term "operable" is defined as working when a battery is inserted or the electricity is on; however, neither the owner nor the landlord is obligated to provide the electricity or replacement batteries for its operation.

(4) Notwithstanding the provisions of this chapter, where the State Building Code requires the installation of an electrical smoke detector or alarm, that code or provision shall control.
(Ord. passed 7-13-2004) Penalty, see § 151.99

§ 151.12 POWERS AND DUTIES OF HOUSING INSPECTOR.

The Inspector is hereby designated and appointed to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed:

Mount Gilead - Land Usage

(A) To investigate housing conditions and to inspect housing located in the town in order to determine which housing is substandard or unfit for human habitation, and to carry out and effectuate the objectives of this chapter with respect to the repair, closing or demolition of such housing;

(B) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(C) To keep a record of the results of inspection made under this chapter and an inventory of housing that does not meet the minimum standards of fitness herein prescribed;

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

(E) To enter upon premises for the purposes of making examinations and inspections; provided, such entries shall be made in accordance with § 151.13 of this chapter and state law, and shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(F) To appoint and fix the duties of officers, agents, and employees necessary to carry out the purposes of this chapter;

(G) To delegate any of the Inspector's functions and powers under this chapter; and

(H) To perform such other duties as may be prescribed herein or by the Town Council.
(Ord. passed 7-13-2004) Penalty, see § 151.99

§ 151.13 INSPECTIONS.

(A) *Authority to enter.* For the purpose of making inspections and otherwise performing duties under this chapter, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all housing for the purpose of performing the Inspector's duty of safeguarding the health and safety of the occupants of housing and of the general public.

(B) *Obtaining a warrant.* Whenever an owner, occupant or agent thereof shall deny the Inspector reasonable access to any premises for purposes of making inspections, the Housing Inspector shall obtain a warrant to inspect as authorized by G.S. § 15-27.2.
(Ord. passed 7-13-2004)

§ 151.14 PROCEDURE FOR ENFORCEMENT.

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

(1) On the Inspector's own motion, on request of any public authority, or upon receipt of a petition signed by any five residents of the town alleging that any housing is substandard or unfit for human habitation, the Inspector shall undertake a preliminary investigation of the premises. If the

Inspector's preliminary investigation discloses a basis for such charges, the Inspector shall issue and cause to be served upon the owner of, and parties in interest in, such housing a complaint stating the charges and containing a notice that a hearing will be held before the Inspector or the Inspector's designated agent at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner and any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such housing, if any. Any person desiring to do so may attend such hearing and give evidence in the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(2) The owner and parties in interest may file with the Inspector a written statement agreeing that the housing referred to in the complaint is unfit for human habitation, that the same should be demolished, and agreeing that all costs of demolition shall be a lien in the nature of a special assessment upon the property. In such cases, the Inspector may proceed with the demolition without complying with the additional provisions of this section.

(B) *Issuance of order after hearing.* If, after such notice and hearing, the Inspector shall determine that the housing under consideration is substandard or unfit for human habitation under the terms of this chapter, the Inspector shall state in writing his or her findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. If any party in interest took part in the hearing, the order shall also be served on that person. The order shall do the following:

(1) *Deteriorated housing.* If the housing is determined to be deteriorated, the order shall require the owner, within the time specified in the order, not to exceed 90 days, to repair, alter or improve it in order to render it fit for human habitation, or to vacate and close it as a human habitation.

(2) *Dilapidated housing.* If the housing is determined to be dilapidated, the order shall require the owner, within the time specified in the order, not to exceed 90 days, either to repair, alter or improve such housing to comply with the minimum standards of fitness established by this chapter, or else to vacate and demolish and remove such housing.

(3) *Historic housing.* Notwithstanding division (B)(2) above, or any other provision of law, if the housing is located in a historic district of the town and the Historic District Commission determines, after a public hearing as provided by ordinance, that the housing is of particular significance or value toward maintaining the character of the district, and the housing has not been condemned as unsafe, the order may require that the housing be vacated and closed consistent with G.S. § 160A-400.14(a).

(C) *Compliance with state law.* The Inspector shall comply with any requirements of G.S. § 160A-443(8).

(D) *Failure to comply with order.*

(1) It shall be unlawful for the owner of any housing to fail, neglect, or refuse to repair, alter, or improve the same, or to fail, neglect or refuse to vacate and close or vacate and demolish and remove the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense.

(2) It shall be unlawful for the owner of any housing, with respect to which an order has been issued pursuant to division (B) of this section, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing before the required repair, alteration or improvement has been made. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(3) Unless specifically provided otherwise, violation of this chapter shall be a civil offense. If an owner fails to comply with an order to repair, alter or improve or to vacate and close, or to vacate and demolish and remove any housing, any one, all, or combination of the enforcement actions authorized by law may be taken, including those set forth in § 151.99.
(Ord. passed 7-13-2004) Penalty, see § 151.99

§ 151.15 APPEALS FROM ORDERS OF THE INSPECTOR; REVIEW BY COURT.

(A) *Appeals Board.* All appeals which may be taken from decisions or orders of the Inspector pursuant to this chapter shall be heard and determined by the Zoning Board of Adjustment. If the Zoning Board of Adjustment ("Board of Adjustment") consists of more than five members, the Chairman may designate five members to hear appeals under this chapter. As the appeals body, the Board shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall keep an accurate journal of all its proceedings.

(B) *When appeal may be taken.* An appeal may be taken by the owner or party in interest, or by any officer, board or commission of the town, from a final decision or an order of the Inspector, unless a different method of appeal is provided for herein. Any appeal shall be taken within ten days from the rendering of the decision or service of the order, as the case may be, by filing with the Inspector and with the Board of Adjustment a written notice of appeal which shall specify with particularity all of the grounds upon which the appeal is based.

(C) *Duty of Inspector upon the filing of an appeal.* Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the final decision or order appealed from was made.

(D) *Staying of action.* When an appeal is from a decision or order of the Inspector refusing to allow the person aggrieved thereby to do any act, the Inspector's decision or order shall remain in force until

modified or reversed. When an appeal is from a decision or order of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with the Inspector, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of the Inspector's requirement would cause imminent peril to life or property. In that case, the requirement shall not be suspended except for due cause shown upon not less than one day's written notice to the Inspector, by the Board of Adjustment, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and this section.

(E) *Hearing of appeals.* The Board of Adjustment shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, to adapt the application of this chapter to the necessities of the case to the end that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. A copy of the Board's decision shall be served on the appellant by the Inspector.

(F) *Petition to Superior Court.*

(1) Every decision of the Board of Adjustment shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the date of service of the decision of the Board, but not otherwise.

(2) Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board of Adjustment may petition the Superior Court for an injunction restraining the Inspector from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the Inspector pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be held in accordance with G.S. § 160A-446(f).

(Ord. passed 7-13-2004)

§ 151.16 FILING OF NOTICE OF LIS PENDENS.

Lis pendens (a pending suit), in general terms, is a notice filed on public records for the purpose of warning all persons that the title to certain property is in litigation, and they are in danger of being bound by an adverse judgment. Upon the issuance of a complaint and notice of hearing or order pursuant thereto, a notice of lis pendens, with a copy of the complaint and notice of hearing or order attached thereto, may be filed by the Inspector in the office of the Clerk of Superior Court for the county, as provided in G.S. § 1-120.2. The Inspector shall serve a copy of the notice of lis pendens upon the owners and parties in interest in the housing. The Inspector may have the notice of lis pendens canceled

at such time as the housing is brought into conformity with this charter by sending to the Clerk of Superior Court a notice asking that the notice of lis pendens be canceled.
(Ord. passed 7-13-2004) Penalty, see § 151.99

§ 151.17 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Inspector shall be served either personally or by registered or certified mail. If the identities of any owners or the whereabouts of persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon the unknown owners or other person(s) may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under the provisions of this chapter. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the housing affected by the complaint or order.
(Ord. passed 7-13-2004)

§ 151.18 COSTS A LIEN ON PREMISES; DISPOSITION OF PROPERTY.

(A) *Lien.* As provided by G.S. § 160A-443(6), the cost of any repairs, alterations, or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to this chapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, having priority, and be collected in the same manner as the lien for special assessments established by G.S. Chapter 160A, Article 10.

(B) *Disposition.* If the housing is removed or demolished by the Inspector, the Inspector shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.
(Ord. passed 7-13-2004)

§ 151.19 OTHER REMEDIES.

Nothing contained in this chapter or in any other part of this chapter shall be construed to abrogate or impair the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise; to enforce any provision of its charter, or its ordinances or regulations; or to prevent or punish violations thereof, and the procedure described herein shall be in addition and supplemental to the powers conferred on the town by any other law.
(Ord. passed 7-13-2004)

§ 151.20 CONFLICT WITH OTHER PROVISIONS.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail. The headings contained in this chapter are for ease of reference only and shall not limit or otherwise define the contents of the sections.

(Ord. passed 7-13-2004)

§ 151.21 SEVERABILITY.

If any provision of this chapter is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, independent provision and such holding shall not affect the validity of any other provision hereof, and, to that end, the provisions of this chapter are hereby declared to be severable.

(Ord. passed 7-13-2004)

§ 151.99 PENALTY.

(A) *Civil penalty.* If the owner of any deteriorated housing shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close the same within the time specified therein, or if the owner of dilapidated housing shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close and demolish and remove the same within the time specified therein, or if any housing is occupied in violation of this chapter or any valid order or decision of the Inspector or Board of Adjustment made pursuant to this chapter, the owner shall be subject to a civil penalty of \$100 for the first day following the expiration of such order or following a determination that unfit housing has been reoccupied in violation of this section, as the case may be. In each instance, a penalty of \$25 per day shall be imposed for each subsequent day that the order remains unsatisfied or the unfit housing remains occupied in violation of an order. If a person fails to pay the civil penalty within ten days after being notified of the amount due, the town may recover the civil penalty together with all costs by filing one or more civil actions in the general court of justice in the nature of a suit to collect a debt. The Town Attorney is hereby authorized to file suit on behalf of the town to collect any civil penalties, and the Town Manager is hereby authorized to verify and sign complaints on behalf of the town in such suits. No civil penalty shall be imposed against an owner of unfit housing where the only violation rendering the housing unfit or substandard is a violation for which this chapter provides that the occupant is the sole person responsible, unless the owner is also the occupant. If the owner of any deteriorated housing shall fail to comply with an order of the Inspector to repair, alter, or improve or to vacate and close the same within the time specified therein, or if the owner of dilapidated housing shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close and demolish and remove the same within the time specified therein, or if any housing is occupied in violation of this chapter or any valid order or decision of the Inspector or Board of Adjustment made pursuant to this

chapter two times or more within any 12-month period, the civil penalty for the second and all subsequent violations shall be double the amounts specified in this division (A).

(B) *Action pursuant to ordinance.* If the owner of deteriorated or dilapidated housing fails to comply with an order of the Inspector within the time specified therein and court ordered relief has not been sought or has not been granted as provided in division (D) of this section, the Inspector may cause the housing to be repaired, altered, improved, vacated, closed or demolished and removed, as required by the order, provided the Inspector takes the following steps. The Inspector may submit to the Town Council for adoption an ordinance describing the property and ordering the Inspector to proceed to effectuate the purpose of this chapter with respect to the particular property or properties which the Inspector found to be substandard or unfit for human habitation. No such ordinance shall be adopted to require demolition and removal of housing until the owner has first been given a reasonable opportunity to bring it into conformity with this chapter. Such ordinance shall be recorded in the office of the Register of Deeds of the county, and shall be indexed in the name of the property owner in the grantor index. The Inspector may place a placard on any housing so closed stating "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Notwithstanding any other provision of this chapter, in accordance with G.S. § 160A-443(4), occupation of a building so posted shall constitute a Class 1 misdemeanor, punishable by a fine of not more than \$500 or imprisonment of not more than 30 days. If, after adoption of such ordinance, any occupant fails to comply with an order to vacate housing, the Inspector may file a civil action in the name of the town to remove such occupant in accordance with G.S. § 160A-443(7), including the provision of 30 days' prior notice to an occupant who is a tenant of the owner.

(C) *Additional ordinance one year later.* If the Town Council shall have adopted an ordinance pursuant to division (B) above or, if the Inspector shall have issued an order ordering a dwelling to be repaired or vacated and closed, as provided in § 151.14(B)(1), and if the owner has vacated and closed such housing and kept such housing vacated and closed for a period of one year pursuant to the ordinance or order, then, if the Town Council shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the housing in its vacated and closed status would be inimical to the health, safety, morals and welfare of the town in that the housing would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, or would render unavailable property and housing which might otherwise have been made available to ease the persistent shortage of decent and affordable housing, in such circumstances the Town Council may, after the expiration of such one-year period, enact an ordinance and serve such ordinance on the owner requiring the owner to either repair or demolish and remove the housing within 90 days. Such ordinance shall meet the requirements set forth in G.S. § 160A-443(5a) and 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. If the owner fails to comply with this chapter within the time fixed by such ordinance, then the Inspector shall effectuate the purpose of the ordinance. The cost of such repairs, demolition or removal shall be a lien on the property.

(D) *Court-ordered relief.* If the owner of any deteriorated housing shall fail to comply with an order of the Inspector to repair, alter, or improve or to vacate and close the same within the time specified

therein, or if the owner of dilapidated housing shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close and demolish and remove the same within the time specified therein, or if any housing is erected, constructed, altered, repaired, converted, maintained, or used in violation of this chapter or any valid order or decision of the Inspector or Board of Adjustment made pursuant to this chapter, the Inspector may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or use; to restrain, correct or abate the violation; to prevent the occupancy of the housing; or for any other purpose authorized by G.S. § 160A-446(g) and other law.

(E) *Other enforcement action.* The failure of the owner to comply with an order issued by the Inspector may also be enforced through any equitable or other remedy deemed appropriate by the town and permitted by law.

(Ord. passed 7-13-2004)

CHAPTER 152: NON-RESIDENTIAL MAINTENANCE AND SAFETY CODE

Section

152.01 Adoption by reference

§ 152.01 ADOPTION BY REFERENCE.

The Town Non-Residential Maintenance and Safety Code, duly enacted by ordinance passed March 9, 2010, as amended from time to time thereafter, is hereby adopted by reference into this code of ordinances as if fully set forth herein. Copies of the ordinance are available for public inspection in the office of the Town Manager.

(Ord. passed 3-9-2010) Penalty, see § 10.99

CHAPTER 153: WATER SUPPLY WATERSHED PROTECTION

Section

153.01 Adoption by reference

§ 153.01 ADOPTION BY REFERENCE.

Article I. General Regulations and Provisions, Section 13. Water Supply Watershed Protection, and Article III. Establishment of District Regulations, Section 8. WS-IV Tuckertown-Badin-Tillery Watershed Overlay District, both of the Montgomery County Zoning Ordinance, duly enacted by ordinance passed in 2001 by the Montgomery County Board of Commissioners, as amended from time to time thereafter, are hereby adopted by reference into this code of ordinances as if fully set forth herein and are applicable within the town pursuant to G.S. § 153A-122. Copies of the ordinance are available for public inspection in the office of the Town Manager.
(Ord. passed 2-9-2010)

Mount Gilead - Land Usage

CHAPTER 154: ZONING CODE

Section

154.01 Zoning Code adopted by reference

§ 154.01 ZONING CODE ADOPTED BY REFERENCE.

The Town Zoning Ordinance, duly enacted by Ordinance 2013-01-01, passed January 15, 2013, as amended from time to time thereafter, is hereby adopted by reference into this code of ordinances as if fully set forth herein. Copies of the zoning ordinance are available for public inspection in the office of the Town Manager.

(Ord. 2013-01-01, passed 1-15-2013)

CHAPTER 155: LAND USE PLAN

Section

155.01 Land Use Plan adopted by reference

§ 155.01 LAND USE PLAN ADOPTED BY REFERENCE.

The Land Use Plan, duly enacted by ordinance passed August 11, 2009, as amended from time to time thereafter, is hereby adopted by reference into this code of ordinances as if fully set forth herein. Copies of the Land Use Plan are available for public inspection in the office of the Town Manager. (Ord. passed 8-11-2009)

CHAPTER 156: FLOOD DAMAGE PREVENTION

Section

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GENERAL PROVISIONS

§ 156.01 STATUTORY AUTHORIZATION.

The Legislature of the State of North Carolina has in G.S. Ch. 143, Art. 21, Part 6; G.S. Ch. 160A, Art. 19, Parts 3, 5, and 8; and G.S. Ch. 160A, Art. 8, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare. (Ord. passed 1-8-2019)

§ 156.02 FINDINGS OF FACT.

(A) The flood prone areas within the jurisdiction 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 prone areas of uses vulnerable to floods or other hazards. (Ord. passed 1-8-2019)

§ 156.03 STATEMENT OF PURPOSE.

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

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

(B) Require that uses vulnerable to floods, including facilities that 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 involved in the accommodation of floodwaters;

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

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.
(Ord. passed 1-8-2019)

§ 156.04 OBJECTIVES.

The objectives of this chapter are to:

(A) Protect human life, safety, and health;

(B) Minimize expenditure of public money for costly flood control projects;

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

(D) Minimize prolonged business losses and interruptions;

(E) Minimize damage to public facilities and utilities (for example, water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

(F) Minimize damage to private and public property due to flooding;

(G) Make flood insurance available to the community through the National Flood Insurance Program;

(H) Maintain the natural and beneficial functions of floodplains;

(I) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(J) Ensure that potential buyers are aware that property is in a special flood hazard area.
(Ord. passed 1-8-2019)

§ 156.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common urban **ACCESSORY STRUCTURES**. Pole barns, hay sheds, and the like qualify as **ACCESSORY STRUCTURES** on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure.

ALTERATION OF A WATERCOURSE. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard, or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

AREA OF FUTURE-CONDITIONS FLOOD HAZARD. The land area that would be inundated by the 1% annual chance (100-year) flood based on future-conditions hydrology.

AREA OF SHALLOW FLOODING. A designated Zone AO or AH on a community's flood insurance rate map (FIRM) with base flood depths determined to be from one to three feet. These areas are located 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. See **SPECIAL FLOOD HAZARD AREA (SFHA)**.

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

BASE FLOOD ELEVATION (BFE). A determination of the water surface elevations of the base flood as published in the flood insurance study. When the **BFE** has not been provided in a special flood hazard area, it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BUILDING. See **STRUCTURE**.

CHEMICAL STORAGE FACILITY. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

DESIGN FLOOD. See **REGULATORY FLOOD PROTECTION ELEVATION**.

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.

DEVELOPMENT ACTIVITY. Any activity defined as development which will necessitate a floodplain development permit. This includes buildings, structures, and non-structural items, including, but not limited to, fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM). The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

DISPOSAL. As defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

ELEVATED BUILDING. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ENCROACHMENT. The advance or infringement of uses, fill, excavation, buildings, structures, or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

EXISTING BUILDING and **EXISTING STRUCTURE.** Any building and/or structure for which the start of construction commenced before January 8, 2019.

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 streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

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

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map of a community, issued by FEMA, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the flood insurance rate map (FIRM).

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by FEMA, where the boundaries of the special flood hazard areas have been defined as Zone A.

FLOOD INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, issued by FEMA, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated (see also *DFIRM*).

FLOOD INSURANCE STUDY (FIS). An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by FEMA. The **FLOOD INSURANCE STUDY** report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

FLOOD PRONE AREA. See **FLOODPLAIN**.

FLOOD ZONE. A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

FLOODPLAIN. Any land area susceptible to being inundated by water from any source.

FLOODPLAIN ADMINISTRATOR. The individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT. Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other

applications of police power. This term describes federal, state, or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

FLOOD-PROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

FLOOD-RESISTANT MATERIAL. Any building product (material, component, or system) capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, available from FEMA. Class 4 and 5 materials, referenced therein, are acceptable **FLOOD-RESISTANT MATERIALS**.

FLOODWAY. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, 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.

FLOODWAY ENCROACHMENT ANALYSIS. An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified state licensed engineer using standard engineering methods and models.

FREEBOARD. The height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the **FREEBOARD** establishes the regulatory flood protection elevation.

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

HAZARDOUS WASTE MANAGEMENT FACILITY. As defined in G.S. Ch. 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

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

HISTORIC STRUCTURE.

(1) Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of 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;

(c) Individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or

(d) Certified as contributing to the historical significance of a historic district designated by a community with a Certified Local Government (CLG) Program.

(2) Certified Local Government (CLG) Programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966, as amended in 1980.

LETTER OF MAP CHANGE (LOMC). An official determination issued by FEMA that amends or revises an effective flood insurance rate map or flood insurance study. ***LETTERS OF MAP CHANGE*** include:

(1) ***CONDITIONAL LETTER OF MAP REVISION (CLOMR).*** A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A ***CLOMR*** does not revise the effective flood insurance rate map or flood insurance study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

(2) ***LETTER OF MAP AMENDMENT (LOMA).*** An official amendment, by letter, to an effective National Flood Insurance Program map. A ***LOMA*** is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A ***LOMA*** amends the current effective flood insurance rate map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(3) ***LETTER OF MAP REVISION (LOMR).*** A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(4) **LETTER OF MAP REVISION BASED ON FILL (LOMR-F).** A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

LIGHT DUTY TRUCK. Any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 C.F.R. Part 86.082-2 and is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle;
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

LOWEST ADJACENT GRADE (LAG). The lowest elevation of the ground, sidewalk, or patio slab immediately next to the building, or deck support, after completion of the building.

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

MARKET VALUE. The building value, not including the land value and that of any accessory structures or other improvements on the lot. **MARKET VALUE** may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (actual cash value); or adjusted tax assessed values.

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

NON-CONVERSION AGREEMENT. A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of this chapter and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the Clerk's or Recorder's stamps and/or notations that the filing has been completed.

NON-ENCROACHMENT AREA (NEA). The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, 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 as designated in the flood insurance study report.

POST-FIRM. Construction or other development for which the start of construction occurred on or after the effective date of the initial flood insurance rate map.

PRE-FIRM. Construction or other development for which the start of construction occurred before the effective date of the initial flood insurance rate map.

PRINCIPALLY ABOVE GROUND. At least 51 % of the actual cash value of the structure is above ground.

PUBLIC SAFETY and/or NUISANCE. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE (RV).

(1) A vehicle which is:

- (a) Built on a single chassis;
- (b) Four-hundred square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and
- (e) Is fully licensed and ready for highway use.

(2) ***OPTIONAL.*** For the purpose of this chapter, tiny homes/houses and park models that do not meet the items listed above are not considered ***RECREATIONAL VEHICLES*** and should meet the standards of and be permitted as residential structures.

REFERENCE LEVEL. The top of the lowest floor for structures within special flood hazard areas designated as Zones A, AE, AH, AO, A99. The **REFERENCE LEVEL** is the bottom of the lowest horizontal structural member of the lowest floor for structures within special flood hazard areas designated as Zone VE. (*Alternative acceptable language for reference level: reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within all special flood hazard areas.*)

REGULATORY FLOOD PROTECTION ELEVATION. The base flood elevation plus the freeboard. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet freeboard. In special flood hazard areas where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

REMEDY A VIOLATION. To bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its non-compliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter, or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

SALVAGE YARD. Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including, but not limited to, vehicles, appliances, and related machinery.

SOLID WASTE DISPOSAL FACILITY. Any facility involved in the disposal of solid waste, as defined in G.S. § 130A-290(a)(35).

SOLID WASTE DISPOSAL SITE. As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in § 156.07.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of

streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure during any one-year period whereby the cost of 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**. *[CRS communities are eligible for up to 20 CRS points for adopting optional text for substantial damage that could include one or more of the following higher standards:*

(1) By choosing a timeframe that includes cumulative damages sustained over a period of time exceeding one year period (five or ten-year period recommended).

(2) By choosing a percent damaged that is less than 50% of the market value of the structure (CRS recommends 30%).

(3) By adding the following text for eligibility for increased cost of compliance (ICC) benefits for repetitive losses: substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.]

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost 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 correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community 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 and the alteration is approved by variance issued pursuant to § 156.34.

[CRS communities are eligible for up to 20 CRS points for adopting optional text for substantial damage that could include one or more of the following higher standards:

(1) By choosing a timeframe that includes cumulative damages sustained over a period of time exceeding one year period (5 or 10 year period recommended).

(2) By choosing a percent damaged that is less than 50% of the market value of the structure (CRS recommends 30%).]

TECHNICAL BULLETIN AND TECHNICAL FACT SHEET.

(1) A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in 44 C.F.R. Part 60.3. The bulletins and fact sheets are intended for use primarily by state and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

(2) It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive state or local regulations apply to the building or site in question. All applicable standards of the state or local building code must also be met for any building in a flood hazard area. *(OPTIONAL)*

TEMPERATURE CONTROLLED. Having the temperature regulated by a heating and/or cooling system, built-in, or appliance.

VARIANCE. A grant of relief from the requirements of this chapter.

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 §§ 156.30 through 156.34 and 156.50 through 156.57 is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION WSE. The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

WATERCOURSE. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. ***WATERCOURSE*** includes specifically designated areas in which substantial flood damage may occur.
(Ord. passed 1-8-2019)

§ 156.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all special flood hazard areas within the jurisdiction, including extra-territorial jurisdictions (ETJs), of the Town of Mount Gilead.
(Ord. passed 1-8-2019)

§ 156.07 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The special flood hazard areas are those identified under the cooperating technical state (CTS) agreement between the State of North Carolina and FEMA in its FIS dated January 2, 2008 for Montgomery County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this chapter. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the town are also adopted by reference and declared a part of this chapter. Subsequent letter of map revisions (LOMRs) and/or physical map revisions (PMRs) shall be adopted within three months.
(Ord. passed 1-8-2019)

§ 156.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter, prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions § 156.07.
(Ord. passed 1-8-2019) Penalty, see § 156.99

§ 156.09 COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations.
(Ord. passed 1-8-2019) Penalty, see § 156.99

§ 156.10 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.
(Ord. passed 1-8-2019)

§ 156.11 INTERPRETATION.

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

(A) Considered as minimum requirements;

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

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. passed 1-8-2019)

§ 156.12 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. Actual flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the special flood hazard areas 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.

(Ord. passed 1-8-2019)

§ 156.13 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This chapter in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit, or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Town of Mount Gilead which are not re-enacted herein are repealed.

(Ord. passed 1-8-2019)

§ 156.14 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this chapter; provided, however, that when construction is not begun under such outstanding permit within a period

of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this chapter.
(Ord. passed 1-8-2019)

§ 156.15 EFFECTIVE DATE.

This chapter shall become effective January 8, 2019.
(Ord. passed 1-8-2019)

ADMINISTRATION

§ 156.30 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Town Manager, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this chapter. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this chapter, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this chapter.
(Ord. passed 1-8-2019)

§ 156.31 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT, AND CERTIFICATION REQUIREMENTS.

(A) *Application requirements.* Application for a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit.

(1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in § 156.07, or a statement that the entire lot is within the special flood hazard area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 156.07;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 156.07;

(e) The base flood elevation (BFE) where provided as set forth in §§ 156.07, 156.32, or 156.53;

(f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

(g) The certification of the plot plan by a registered land surveyor or professional engineer.

(2) Proposed elevation, and method thereof, of all development within a special flood hazard area including, but not limited to:

(a) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;

(b) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, and A99 will be flood-proofed; and

(c) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or flood-proofed.

(3) If flood-proofing, a flood-proofing certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of flood-proofing measures.

(4) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include, but are not limited to:

(a) The proposed method of elevation, if applicable (for example, fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

(b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with § 156.51(D)(4) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, and A99.

(5) Usage details of any enclosed areas below the lowest floor.

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(7) Certification that all other local, state, and federal permits required prior to floodplain development permit issuance have been received.

(8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of § 156.51(F) and (G) are met.

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) *Permit requirements.* The floodplain development permit shall include, but not be limited to:

(1) A complete description of all the development to be permitted under the floodplain development permit (for example, house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the like);

(2) The special flood hazard area determination for the proposed development in accordance with available data specified in § 156.07;

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities;

(4) The regulatory flood protection elevation required for the protection of all public utilities;

(5) All certification submittal requirements with time lines;

(6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of § 156.55 have been met;

(7) The flood openings requirements, if in Zones A, AE, AH, AO, or A99;

(8) Limitations of below BFE enclosure uses, if applicable (for example, parking, building access and limited storage only); and

(9) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(C) *Certification requirements.*

(1) *Elevation certificates.*

(a) An elevation certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(b) An elevation certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(c) A final finished construction elevation certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy. The finished construction elevation certificate certifier shall provide at least two photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in divisions (C)(1)(a) and (C)(1)(b). To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least two additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least three inches by three inches. Digital photographs are acceptable.

(2) *Flood-proofing certificate.*

(a) If non-residential flood-proofing is used to meet the regulatory flood protection elevation requirements, a flood-proofing certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a

certification of the flood-proofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Flood-proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(b) A final finished construction flood-proofing certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a certificate of compliance/occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the flood-proofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Flood-proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to certificate of occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to deny a certificate of compliance/occupancy.

(3) If a manufactured home is placed within Zones A, AE, AH, AO, or A99, and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of § 156.51(C)(2).

(4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(5) *Certification exemptions.* The following structures, if located within Zones A, AE, AH, AO, or A99, are exempt from the elevation/flood-proofing certification requirements specified in divisions (C)(1) and (C)(2):

- (a) Recreational vehicles meeting requirements of § 156.51(F)(1);
- (b) Temporary structures meeting requirements of § 156.51(G); and
- (c) Accessory structures that are 150 square feet or less or \$3,000 or less and meeting requirements of § 156.51(H).

(D) *Determinations for existing buildings and structures.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the State Building Code and this chapter is required.

(Ord. passed 1-8-2019) Penalty, see § 156.99

§ 156.32 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(A) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied;

(B) Review all proposed development within special flood hazard areas to assure that all necessary local, state, and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334;

(C) Notify adjacent communities and the State Department of 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 (FEMA);

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 156.55 are met;

(F) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of § 156.31(C);

(G) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been flood-proofed, in accordance with the provisions of § 156.31(C);

(H) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of § 156.31(C);

(I) When flood-proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of §§ 156.31(C) and 156.51(B);

(J) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (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;

(K) When BFE data has not been provided in accordance with the provisions of § 156.07, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to § 1516.53(B)(3), in order to administer the provisions of this chapter;

(L) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of § 156.07, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter;

(M) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the BFE, advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file;

(N) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended;

(O) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be

necessary to ensure that the work is being done according to the provisions of this chapter and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action;

(P) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor;

(Q) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and 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 floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked;

(R) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her 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;

(S) Follow through with corrective procedures of § 156.33;

(T) Review, provide input, and make recommendations for variance requests;

(U) Maintain a current map repository to include, but not be limited to, historical and effective FIS report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of § 156.07, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs; and

(V) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-Fs) and letters of map revision (LOMRs).

(Ord. passed 1-8-2019)

§ 156.33 CORRECTIVE PROCEDURES.

(A) *Violations to be corrected.* When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(B) *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 Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address, or by personal service, stating:

(1) That the building or property is in violation of the floodplain management regulations;

(2) That a hearing will be held before the Floodplain 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 Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(C) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this chapter, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(D) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain 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.

(E) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to G.S. § 143-215.58 and shall be punished at the discretion of the court.
(Ord. passed 1-8-2019)

§ 156.34 VARIANCE PROCEDURES.

(A) The Board of Adjustment as established by the town, hereinafter referred to as the "Appeal Board," shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the court, as provided in G.S. Ch. 7A.

(C) Variances may be issued for:

(1) 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 that the variance is the minimum necessary to preserve the historic character and design of the structure;

(2) Functionally dependent facilities if determined to meet the definition as stated in § 156.05, provided provisions of divisions (I)(2), (I)(3), and (I)(5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

(3) Any other type of development provided it meets the requirements of this section.

(D) In passing upon variances, 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 on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined in § 156.05 as functionally dependent facility, 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 floodwaters and the effects of wave action, if applicable, expected at the site; and

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(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) A written report addressing each of the above factors shall be submitted with the application for a variance.

(F) 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 and objectives of this chapter.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built, and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to FEMA and the state upon request.

(I) *Conditions for variances.*

(1) Variances shall 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 not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

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

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship;

and

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

(J) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met:

(1) The use serves a critical need in the community;

(2) No feasible location exists for the use outside the special flood hazard area;

(3) The reference level of any structure is elevated or flood-proofed to at least the regulatory flood protection elevation;

(4) The use complies with all other applicable federal, state, and local laws; and

(5) The town has notified the Secretary of the State Department of Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.
(Ord. passed 1-8-2019)

FLOOD HAZARD REDUCTION

§ 156.50 GENERAL STANDARDS.

In all special flood hazard areas the following provisions are required.

(A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.

(C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(D) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.

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(1) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

(2) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

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

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(H) 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, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(I) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in § 156.34(J). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or flood-proofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of § 156.31(C).

(J) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(K) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(L) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(M) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law,

including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

(N) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(O) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

(P) Fill is prohibited in the SFHA, including construction of buildings on fill. This includes not approving conditional letters or letters of map revision - based on fill (CLOMR-F or LOMR-F). (Ord. passed 1-8-2019) Penalty, see § 156.99

§ 156.51 SPECIFIC STANDARDS.

In all special flood hazard areas where BFE data has been provided, as set forth in §§ 156.07 and 156.53, the following provisions, in addition to the provisions of § 156.50, are required:

(A) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 156.05.

(B) *Non-residential construction.* New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 156.05. Structures located in Zones A, AE, AH, AO, or A99 may be flood-proofed to the regulatory flood protection elevation in lieu of elevation, provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection 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. For AO Zones, the flood-proofing elevation shall be in accordance with Article 5, Section I(2). A registered professional engineer or architect shall certify that the flood-proofing standards of this division are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in § 156.31(C), along with the operational plan and the inspection and maintenance plan.

(C) *Manufactured homes.*

(1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in § 156.05.

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(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of division (D).

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved, or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(D) *Elevated buildings.* Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(2) Shall not be temperature-controlled or conditioned;

(3) Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and

(4) Shall include, in Zones A, AE, AH, AO, and A99, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than one foot above the higher of the interior or exterior adjacent grade;

(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) *Fill/grading.* Fill is prohibited in the SFHA. Note: this should be consistent with § 156.50(P).

(6) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished, or otherwise converted to habitable space (30 CRS points); the town will have the right to inspect the enclosed area (30 CRS points). The town will conduct annual inspections (30 CRS points). This agreement shall be recorded with the Montgomery County Register of Deeds and shall transfer with the property in perpetuity.

(7) *Release of restrictive covenant.* If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation.

(E) *Additions/improvements.*

(1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(b) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

(2) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.

Mount Gilead - Land Usage

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of division (D)(4).

(2) An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or flood-proofing standards of division (B). Elevation or flood-proofing certifications are required for all other accessory structures in accordance with § 156.31(C).

(I) *Tanks.* When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met.

(1) *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

(2) *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be elevated to or above the regulatory flood protection elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

(3) *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of division (B) shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(4) *Tank inlets and vents.* Tank inlets, fill openings, outlets, and vents shall be:

(a) At or above the regulatory flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(J) *Other development.*

(1) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 156.55.

(2) *Retaining walls, sidewalks and driveways in regulated floodways and NEAs.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 156.55.

(3) *Roads and watercourse crossings in regulated floodways and NEAs.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of § 156.55.

(Ord. passed 1-8-2019) Penalty, see § 156.99

§ 156.52 [RESERVED].

§ 156.53 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the special flood hazard areas designated as Approximate Zone A and established in § 156.07, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of § 156.50, shall apply.

(A) No encroachments, including fill, new construction, substantial improvements, or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, 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) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

(1) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or flood-proofed in accordance with standards in §§ 156.50 and 156.51.

(2) When floodway or non-encroachment data is available from a federal, state, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of §§ 156.51 and 156.55.

(3) All subdivision, manufactured home park, and other development proposals shall provide BFE data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with § 156.07 and utilized in implementing this chapter.

(4) When BFE data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or flood-proofed (non-residential) to or above the regulatory flood protection elevation, as defined in § 156.05. All other applicable provisions of § 156.51 shall also apply. (Ord. passed 1-8-2019) Penalty, see § 156.99

§ 156.54 STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided by FEMA or is available from another source, but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(A) Standards of §§ 156.50 and 156.51; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. (Ord. passed 1-8-2019) Penalty, see § 156.99

§ 156.55 FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in § 156.07. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in §§ 156.50 and 156.51, shall apply to all development within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

(1) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or

(2) A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

(B) If division (A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.

(C) Manufactured homes may be permitted provided the following provisions are met:

(1) The anchoring and the elevation standards of § 156.51(C); and

(2) The encroachment standards of division (A).

(Ord. passed 1-8-2019) Penalty, see § 156.99

§ 156.56 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the special flood hazard areas established in § 156.07, are areas designated as shallow flooding areas. 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. In addition to §§ 156.50 and 156.51, all new construction and substantial improvements shall meet the following requirements:

(A) The reference level shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least four feet above the highest adjacent grade if no depth number is specified.

(B) Non-residential structures may, in lieu of elevation, be flood-proofed to the same level as required in division (A) so that the structure, together with attendant utility and sanitary facilities, below that level shall be 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. Certification is required in accordance with §§ 156.31(C) and 156.51(B).

(C) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. passed 1-8-2019) Penalty, see § 156.99

§ 156.57 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).

Located within the special flood hazard areas established in § 156.07, are areas designated as shallow flooding areas. These areas are subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are one to three feet. Base flood elevations are derived

from detailed hydraulic analyses are shown in this zone. In addition to §§ 156.50 and 156.51, all new construction and substantial improvements shall meet the following requirement: adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. passed 1-8-2019) Penalty, see § 156.99

§ 156.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to G.S. § 143-215.58. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100 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.

(Ord. passed 1-8-2019)

PARALLEL REFERENCES

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FLOOD DAMAGE PREVENTION ORDINANCE

Non-Coastal Regular Phase

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

SECTION A. STATUTORY AUTHORIZATION.

Municipal: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

County: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3 and 4 of Article 18 of Chapter 153A; and Part 121, Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Commissioners of the Town of Mount Gilead, North Carolina, does ordain as follows:

SECTION B. FINDINGS OF FACT.

- (1) The flood prone areas within the jurisdiction of the Town of Mount Gilead 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.
- (2) 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 prone areas of uses vulnerable to floods or other hazards.

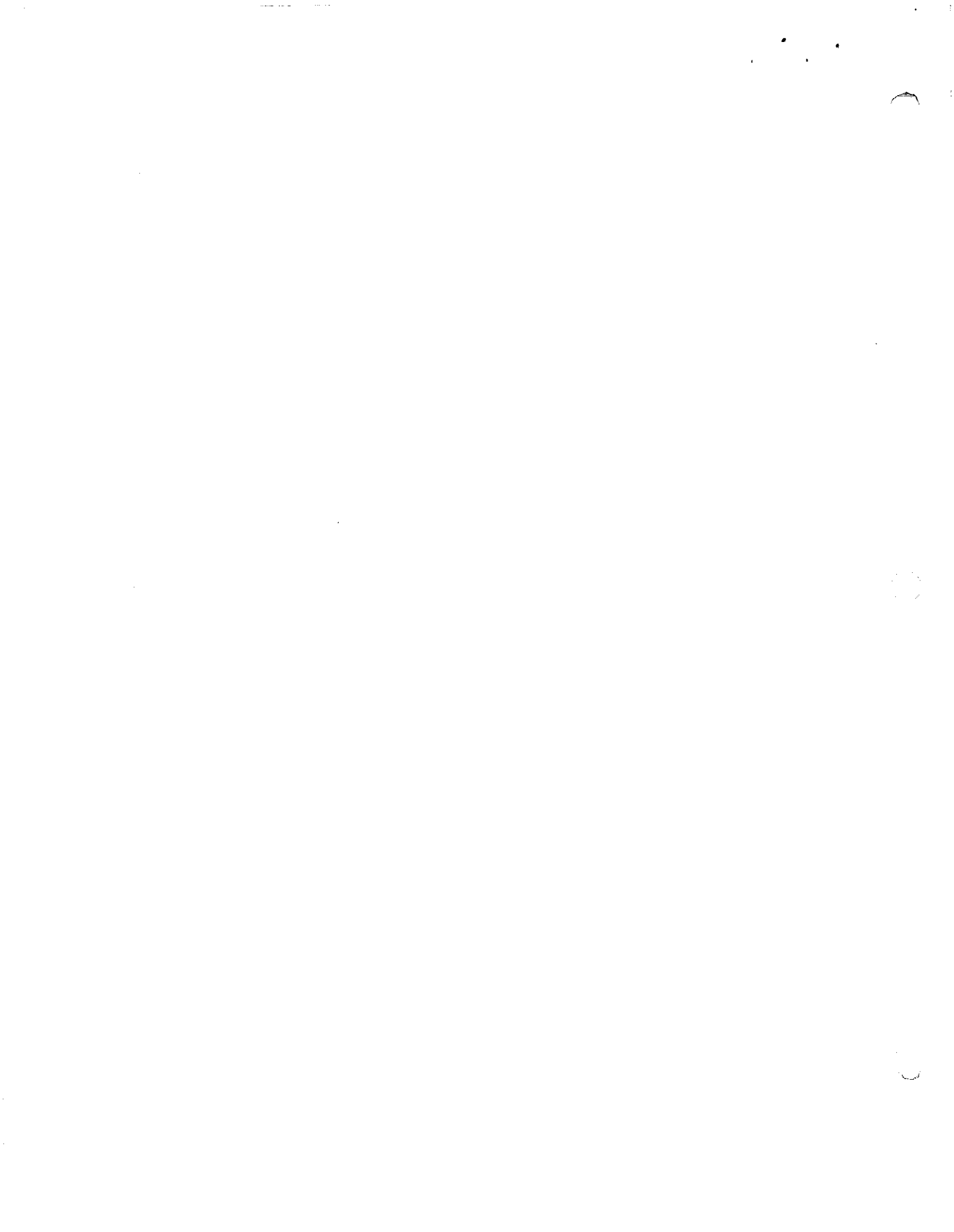
SECTION C. STATEMENT OF PURPOSE.

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

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

SECTION D. OBJECTIVES.

The objectives of this ordinance are to:



- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

ARTICLE 2. DEFINITIONS.

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

"Accessory Structure (Appurtenant Structure)" means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

"Addition (to an existing building)" means an extension or increase in the floor area or height of a building or structure.

"Alteration of a watercourse" means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

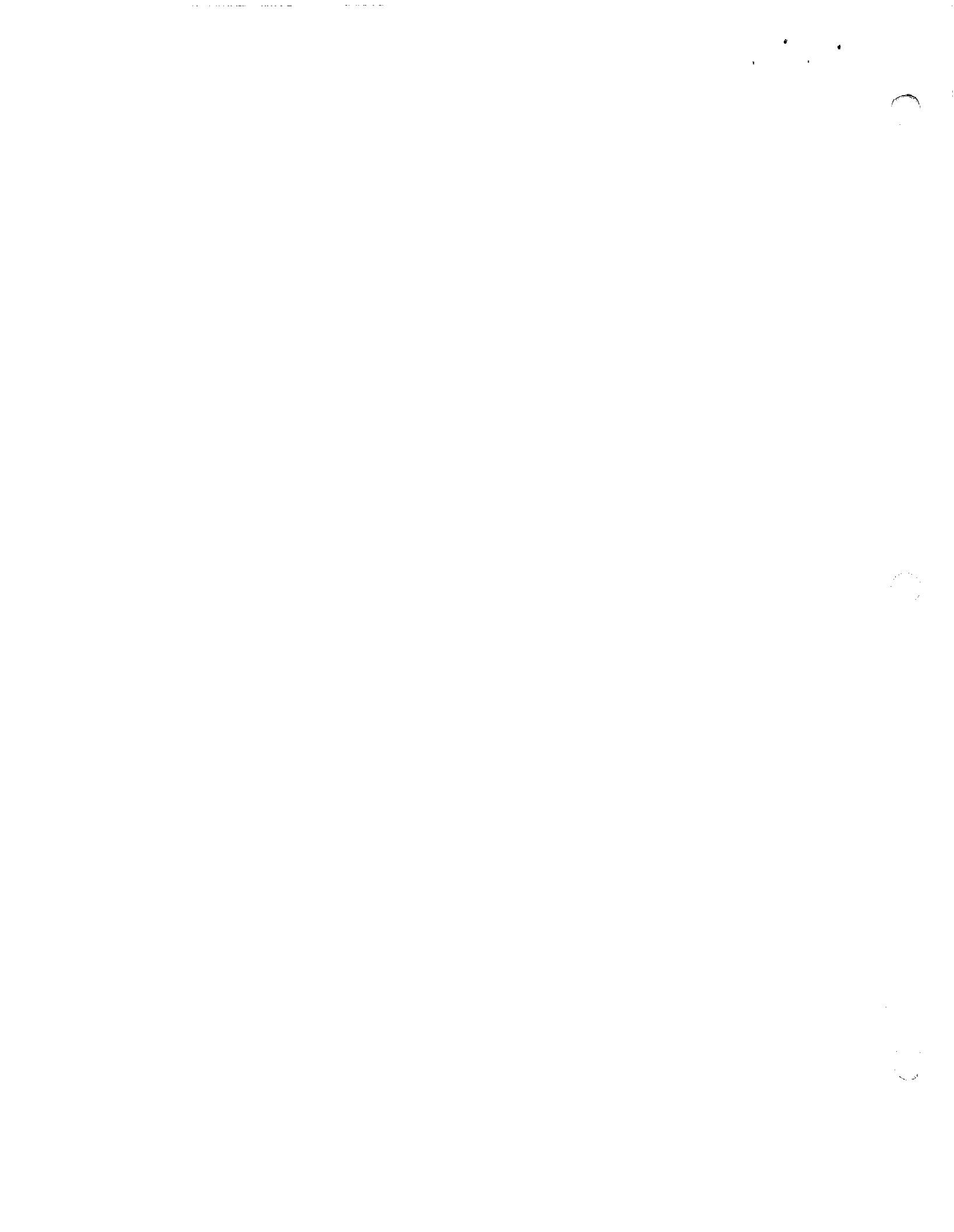
"Area of Shallow Flooding" means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of Special Flood Hazard" see "Special Flood Hazard Area (SFHA)".

"Area of Future-Conditions Flood Hazard" means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology (*OPTIONAL*).

"Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Base Flood Elevation (BFE)" means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".



“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Building” see “Structure”.

“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Design Flood”: See “Regulatory Flood Protection Elevation.”

“Development” means 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.

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before January 8, 2019.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means 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 pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

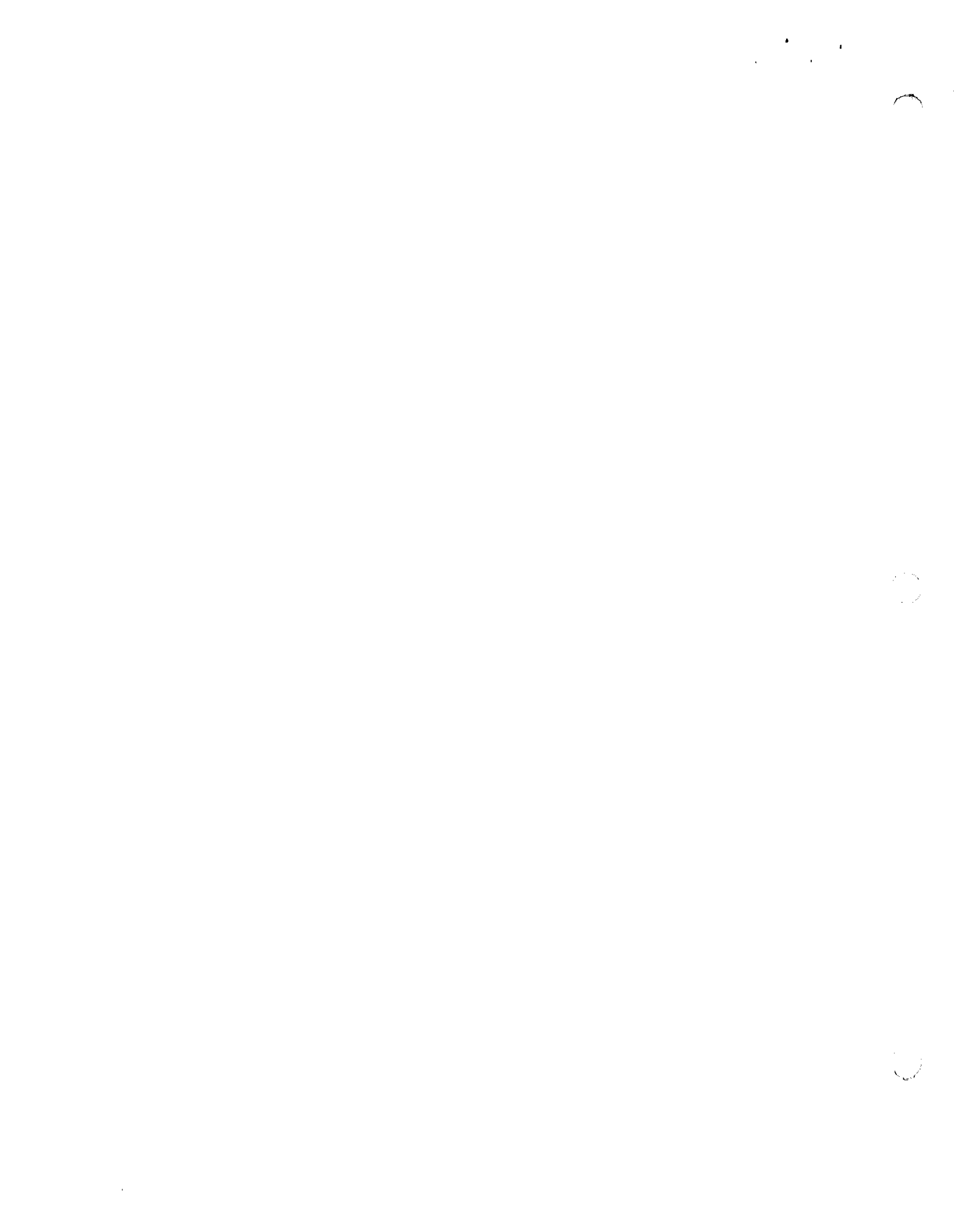
“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water



surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, 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 (1) foot.

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

“Freeboard” means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Management Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.



“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) 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;
- (b) Certified or preliminarily determined by the Secretary of 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;
- (c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program.”

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

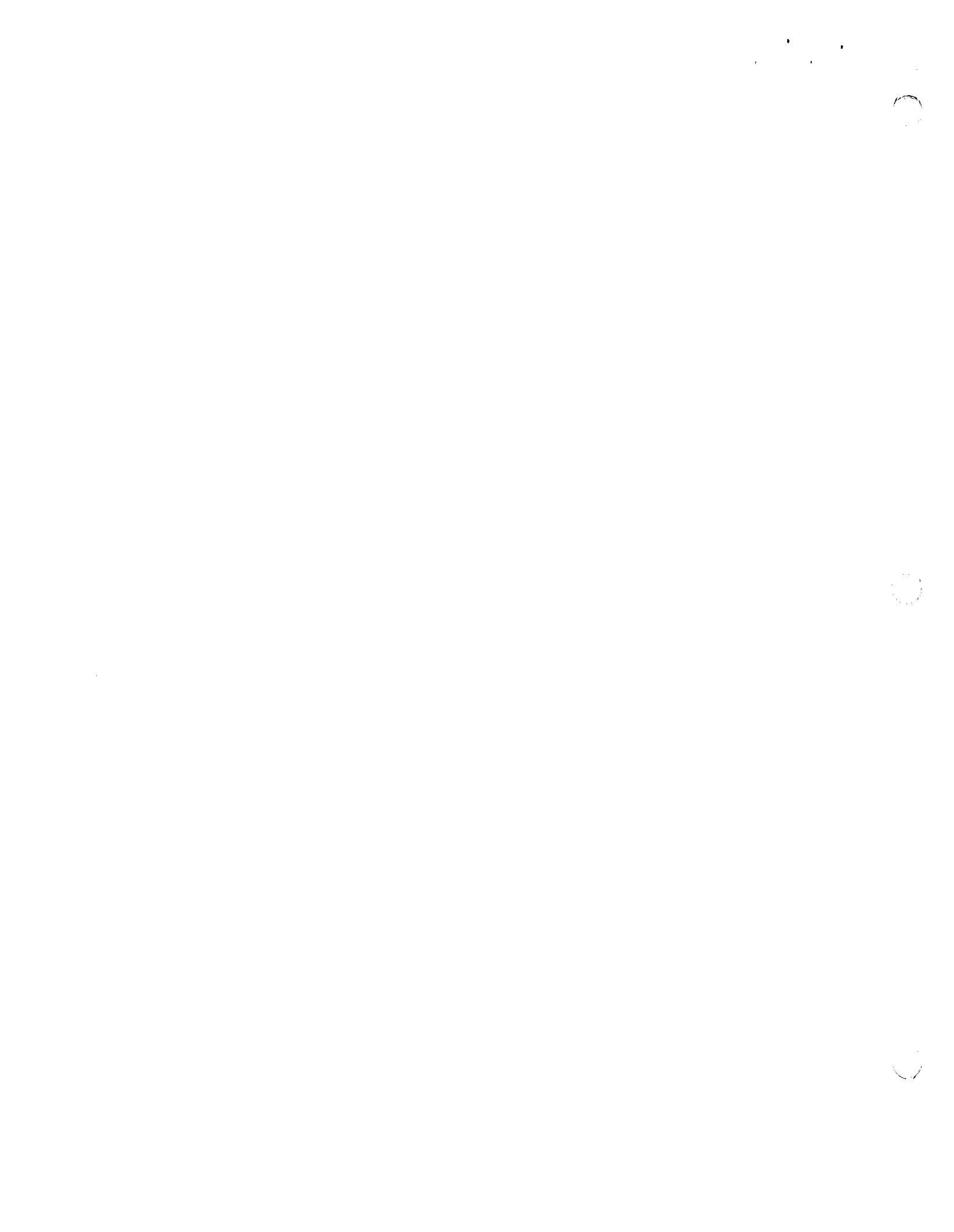
- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

“Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

“Lowest Adjacent Grade (LAG)” means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited 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 ordinance.



“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Market Value” means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

“New Construction” means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

“Non-Conversion Agreement” means a document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk’s or recorder’s stamps and/or notations that the filing has been completed. *(OPTIONAL)*

“Non-Encroachment Area (NEA)” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, 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 (1) foot as designated in the Flood Insurance Study report.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map.

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

“Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means a vehicle, which is:

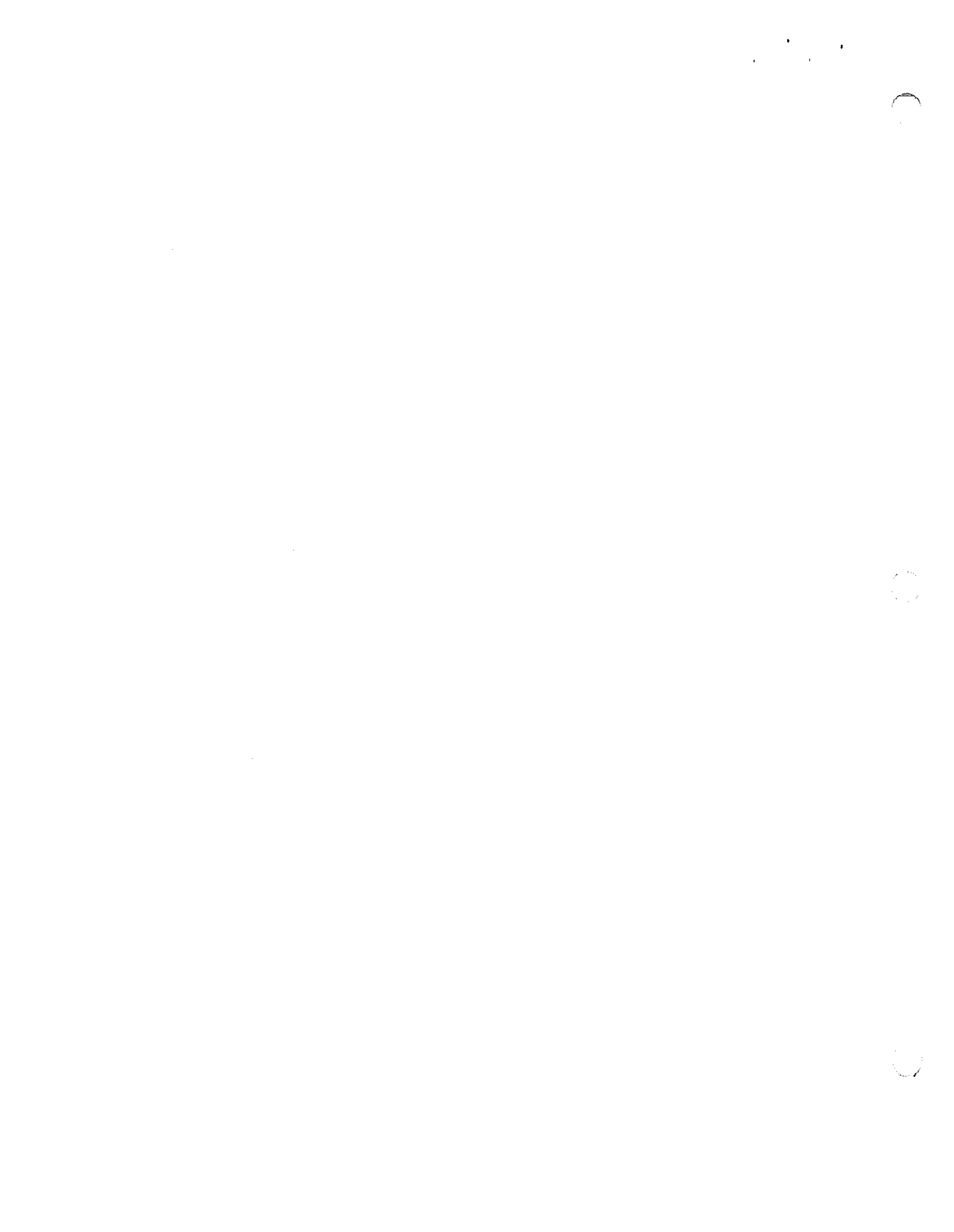
- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

(OPTIONAL For the purpose of this ordinance, “Tiny Homes/Houses” and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.)

“Reference Level” is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

(Alternative acceptable language for Reference Level) “Reference Level” is the bottom of the lowest horizontal structural member of the lowest floor for structures within all Special Flood Hazard Areas.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE *plus* two (2) feet



freeboard). In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

“Remedy a Violation” means to bring the structure or other development into compliance with state and community 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.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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.

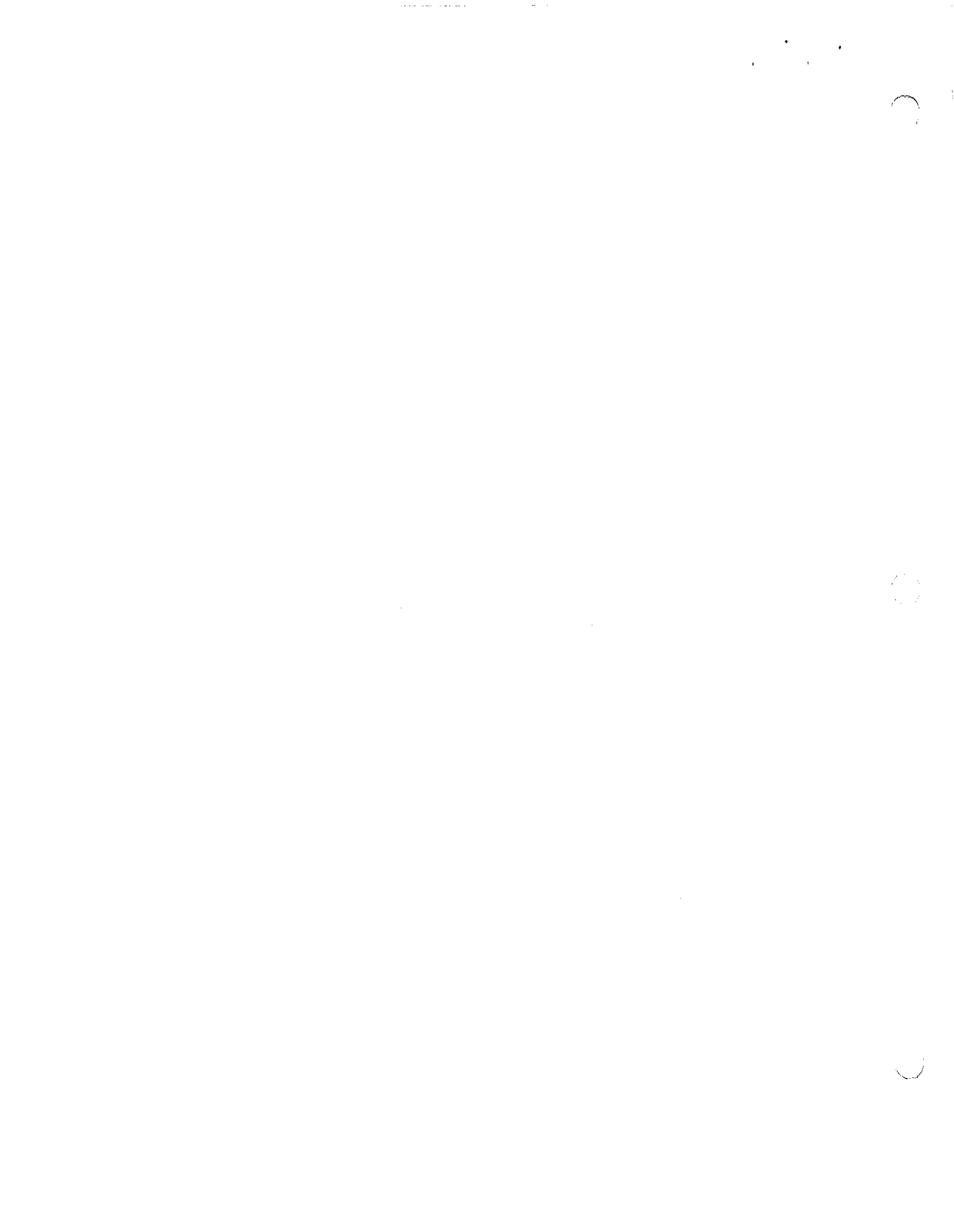
“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”. *[CRS communities are eligible for up to 20 CRS points for adopting OPTIONAL Text for Substantial Damage that could include one or more of the following higher standards:*

- 1.) *By choosing a timeframe that includes cumulative damages sustained over a period of time exceeding one year period. (5 or 10 year period recommended)*
- 2.) *By choosing a percent damaged that is less than 50% of the market value of the structure (CRS recommends 30 %.)*
- 3.) *By adding the following text for eligibility for Increased Cost of Compliance (ICC) benefits for repetitive losses: Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.]*

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent 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:

- (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which



- have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.

[CRS communities are eligible for up to 20 CRS points for adopting OPTIONAL Text for Substantial Damage that could include one or more of the following higher standards:

- 1.) *By choosing a timeframe that includes cumulative damages sustained over a period of time exceeding one year period. (5 or 10 year period recommended)*
- 2.) *By choosing a percent damaged that is less than 50% of the market value of the structure (CRS recommends 30 %.)*

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area. **(OPTIONAL)**

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“Variance” is a grant of relief from the requirements of this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, *including Extra-Territorial Jurisdictions (ETJs), [if applicable]* of the Town of Mount Gilead.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated January 2, 2008 for Montgomery County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Mount Gilead are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map



Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION.

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

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Mount Gilead or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. . Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Mount Gilead from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Town Manager, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete



tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

SECTION B. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
 - (iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
 - (v) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;
 - (vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (vii) The certification of the plot plan by a registered land surveyor or professional engineer.
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with



Article 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.

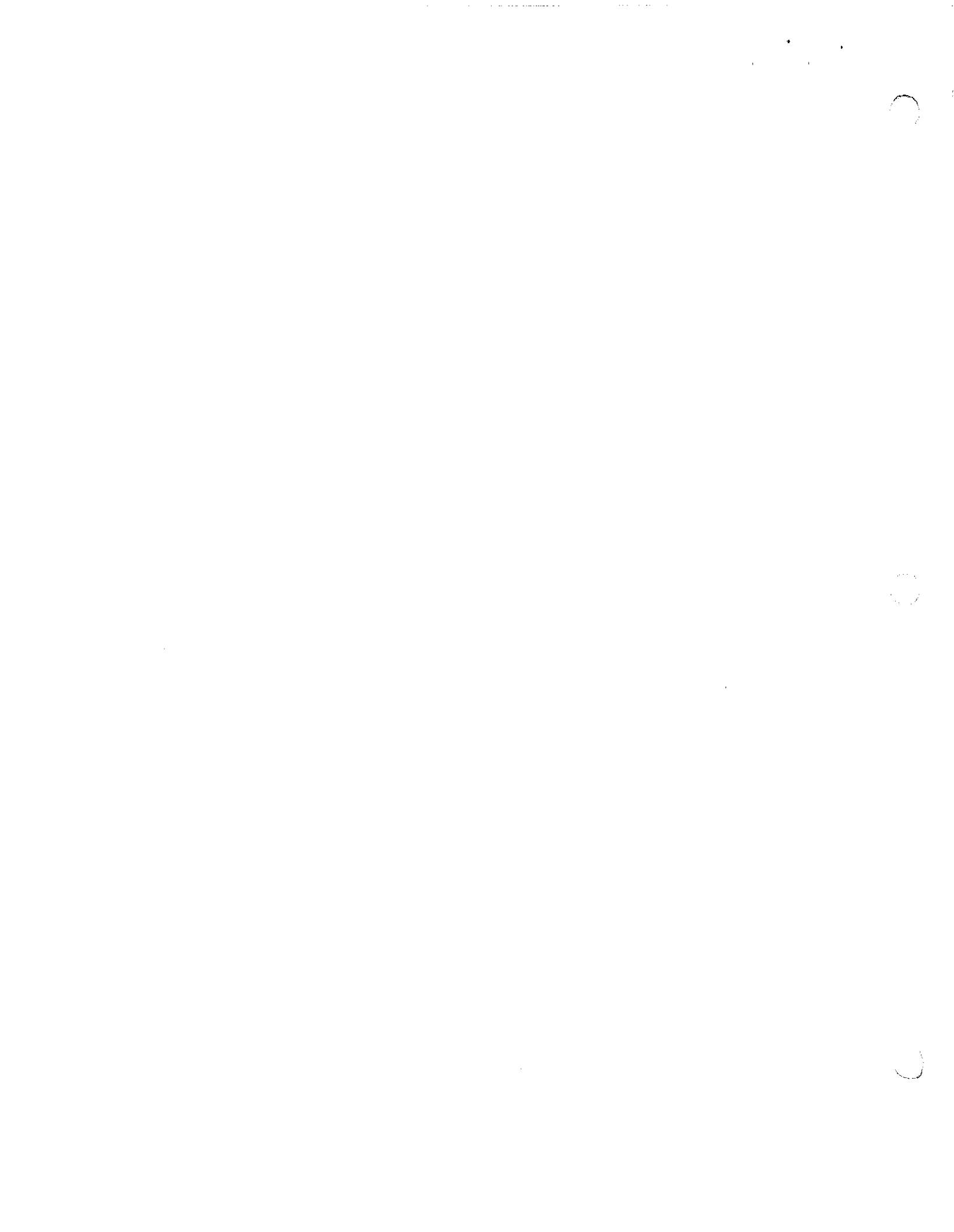
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.
- (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

- (a) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.
- (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.
- (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Article 5, Section F have been met.
- (g) The flood openings requirements, if in Zones A, AE, AH, AO, A99.
- (h) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only). (OPTIONAL)
- (i) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(3) **Certification Requirements.**

- (a) Elevation Certificates
 - (i) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
 - (ii) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit

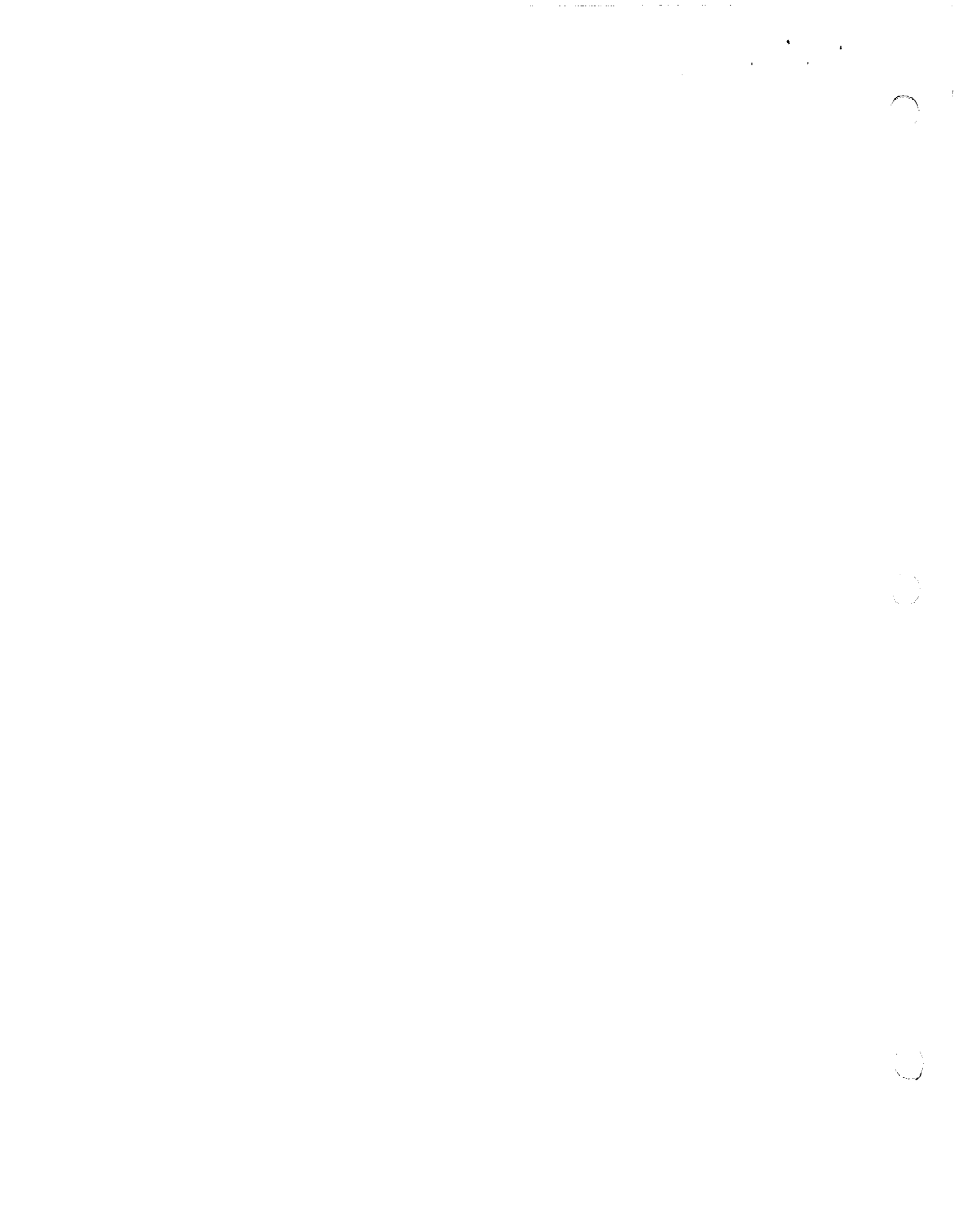


holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

- (iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.

(b) Floodproofing Certificate

- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
 - (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.
- (c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).
 - (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the



location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

- (e) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - (i) Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);
 - (ii) Temporary Structures meeting requirements of Article 5, Section B(7); and
 - (iii) Accessory Structures that are 150 square feet or less or \$3,000 or less and meeting requirements of Article 5, Section B(8).

(4) **Determinations for existing buildings and structures.**

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

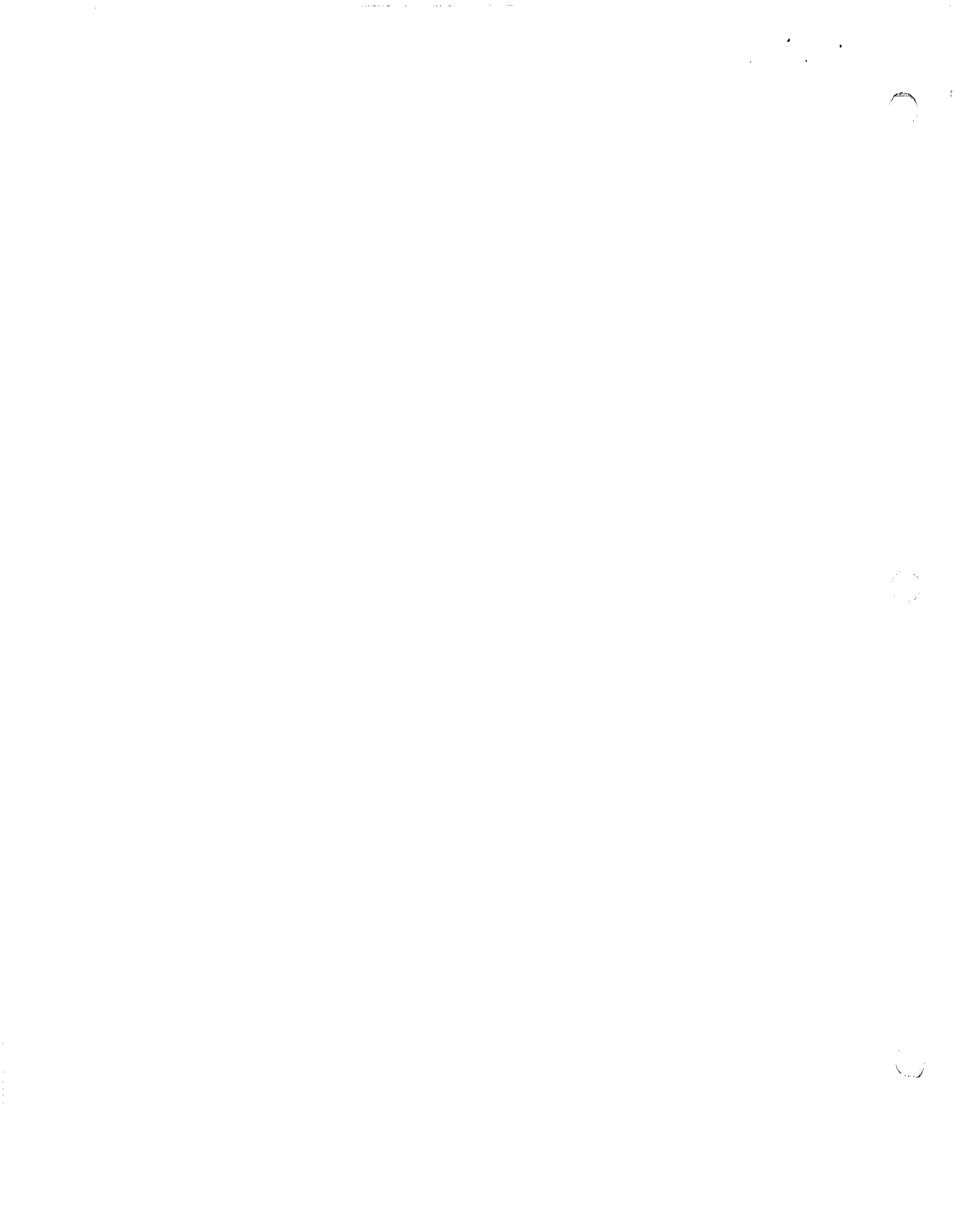
SECTION C. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of 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 (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.



- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Article 4, Section B(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B(3) and Article 5, Section B(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (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 article.
- (11) When BFE data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Article 5, Section D(2)(c), in order to administer the provisions of this ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
- (13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain 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 Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and 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 floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (18) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her 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.



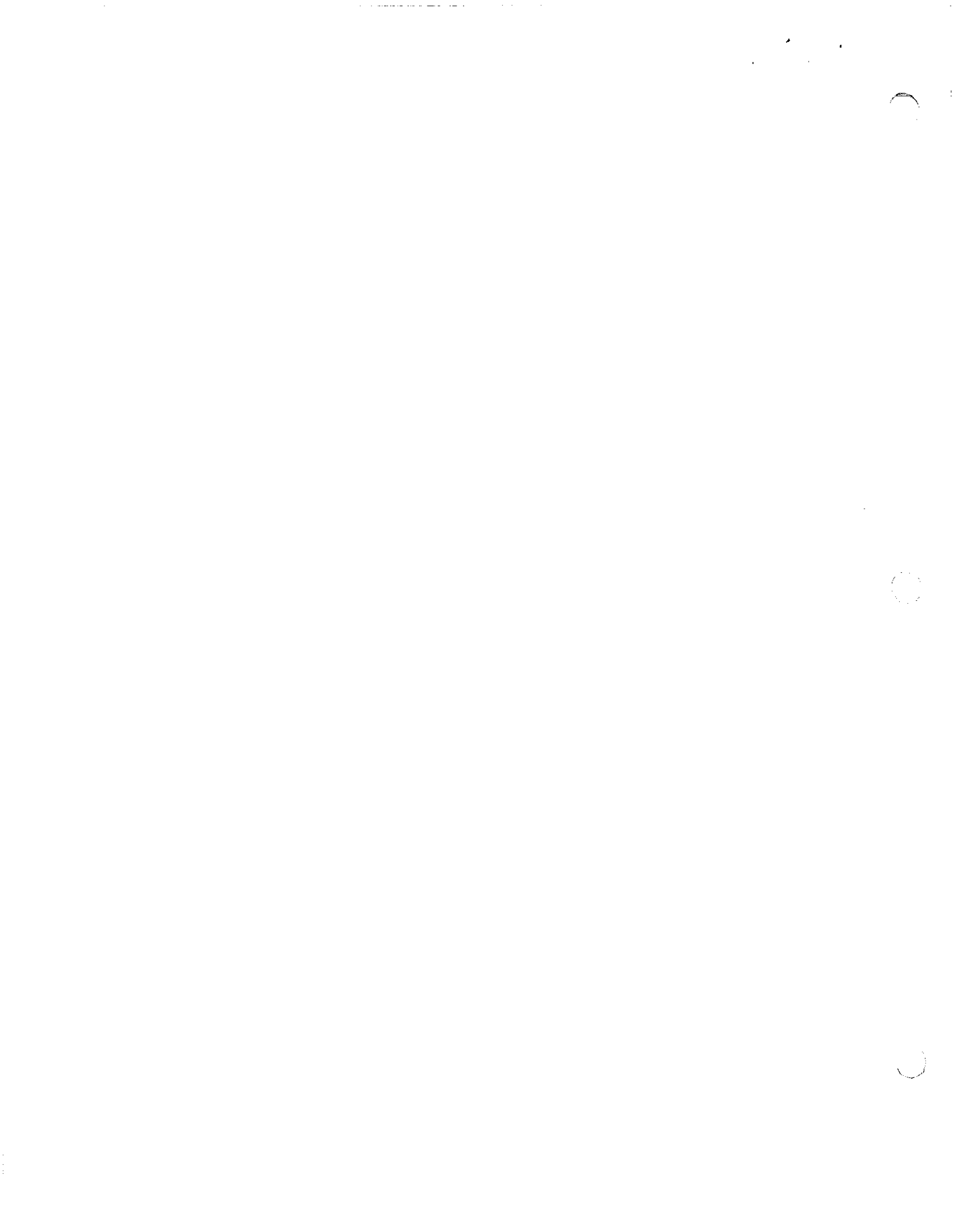
- (19) Follow through with corrective procedures of Article 4, Section D.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

SECTION D. CORRECTIVE PROCEDURES.

- (1) Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) 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 Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) 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
 - (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than least One-hundred-eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain 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.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

SECTION E. VARIANCE PROCEDURES.

- (1) The Board of Adjustment as established by the Town of Mount Gilead, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter



7A of the North Carolina General Statutes.

- (3) Variances may be issued for:
 - (a) 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 that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (b) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) Any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and



the State of North Carolina upon request.

- (9) Conditions for Variances:
- (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
- (a) The use serves a critical need in the community.
 - (b) No feasible location exists for the use outside the Special Flood Hazard Area.
 - (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
 - (d) The use complies with all other applicable federal, state and local laws.
 - (e) The Town of Mount Gilead has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

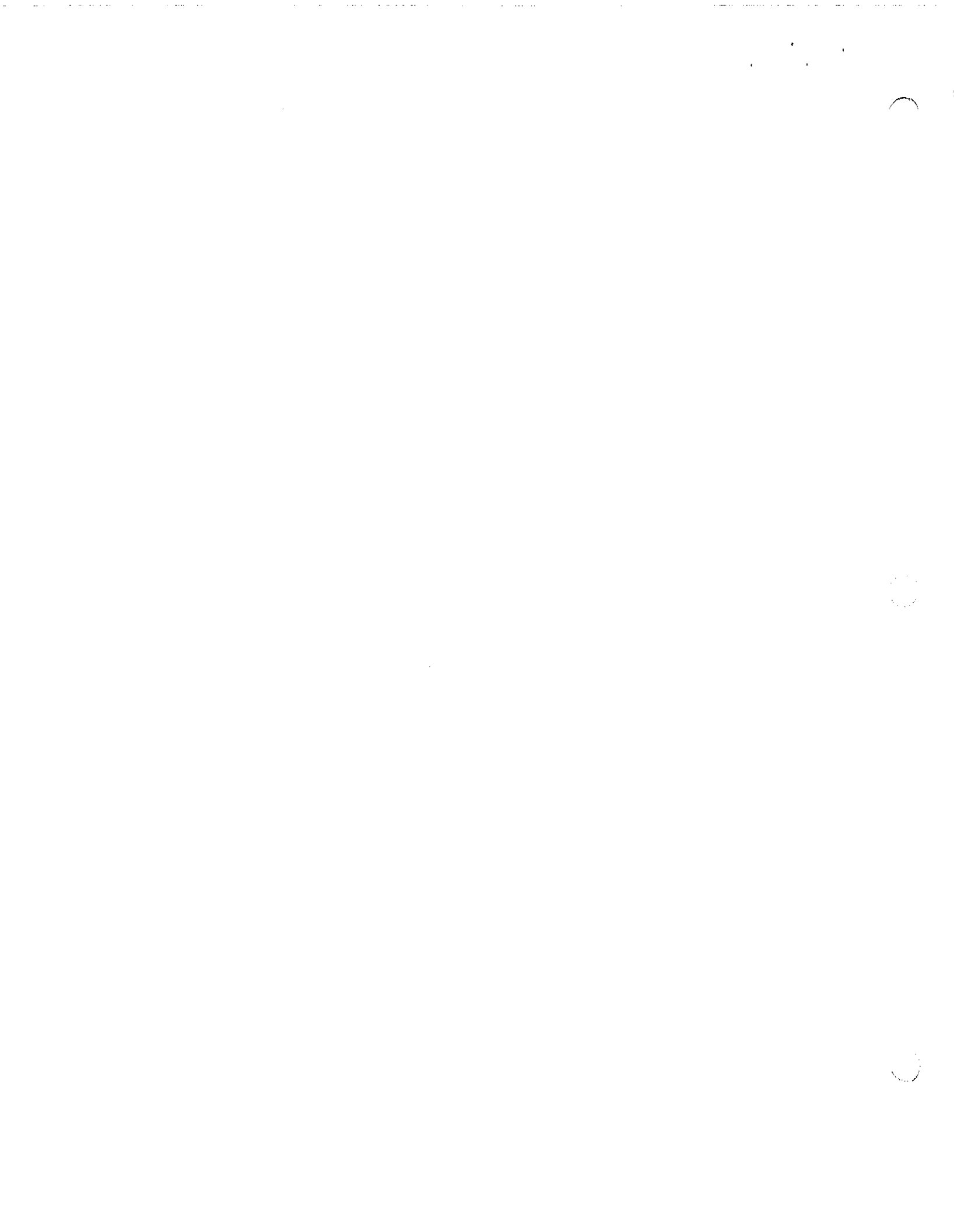
In all Special Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood



damages.

- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B(3).
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- (16) Fill is prohibited in the SFHA, including construction of buildings on fill. This includes not approving Conditional Letters or Letters of Map Revision - Based on Fill (CLOMR-F or LOMR-F).



SECTION B. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection 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. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section I (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational plan and the inspection and maintenance plan.
- (3) Manufactured Homes.
 - (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
 - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4).
 - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- (4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
 - (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - (b) Shall not be temperature-controlled or conditioned;
 - (c) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
 - (d) Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either



be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

- (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
- (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
- (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
- (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
- (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(e) Fill/Grading

- (i) Fill is prohibited in the SFHA. Note: this should be consistent with Article 5, Section A(16).

(f) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space (30 CRS points); the Town of Mount Gilead will have the right to inspect the enclosed area (30 CRS points). The Town of Mount Gilead will conduct annual inspections (30 CRS points). This agreement shall be recorded with the Montgomery County Register of Deeds and shall transfer with the property in perpetuity.

(g) Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation.

(5) Additions/Improvements.

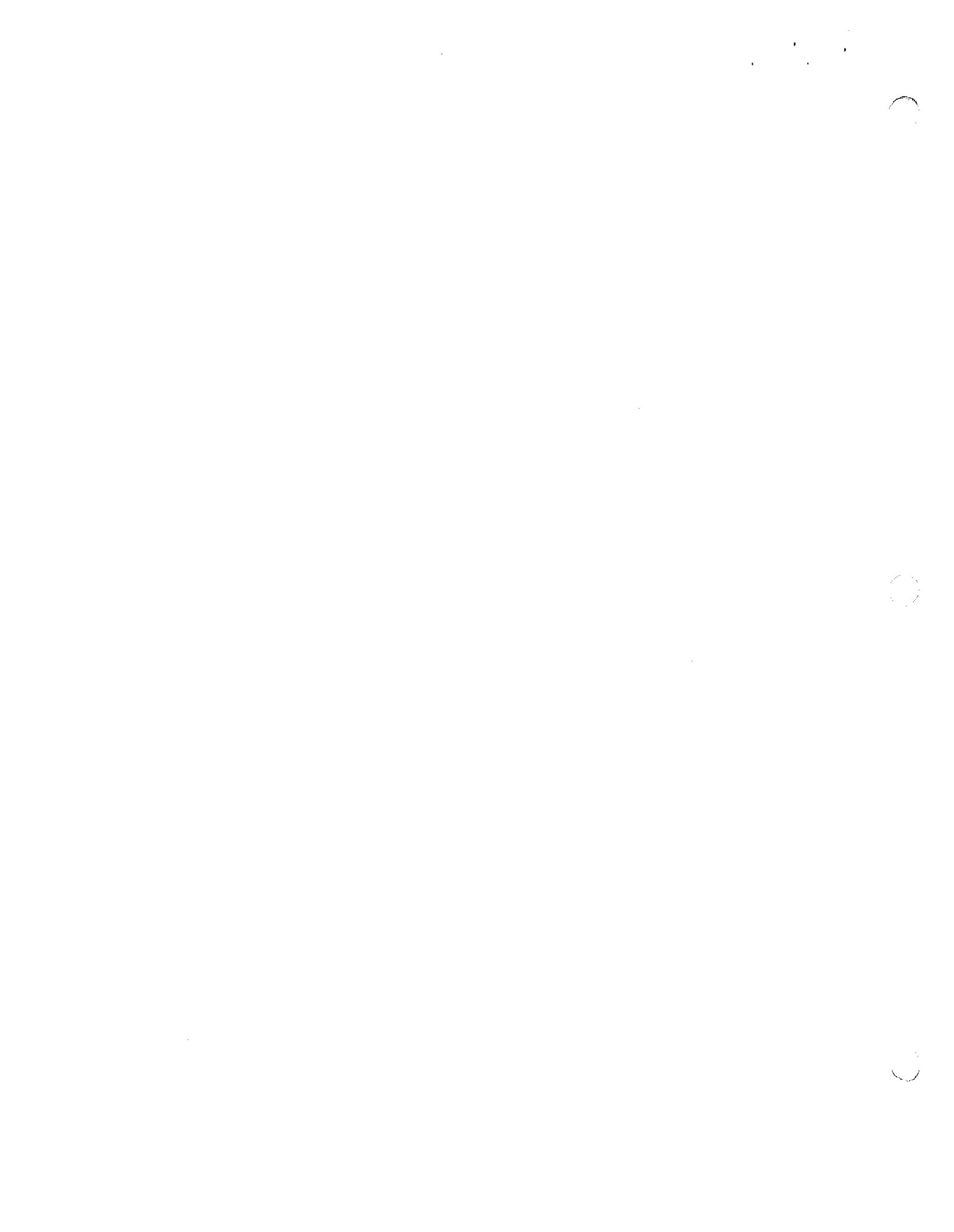
(a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- (i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
- (ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

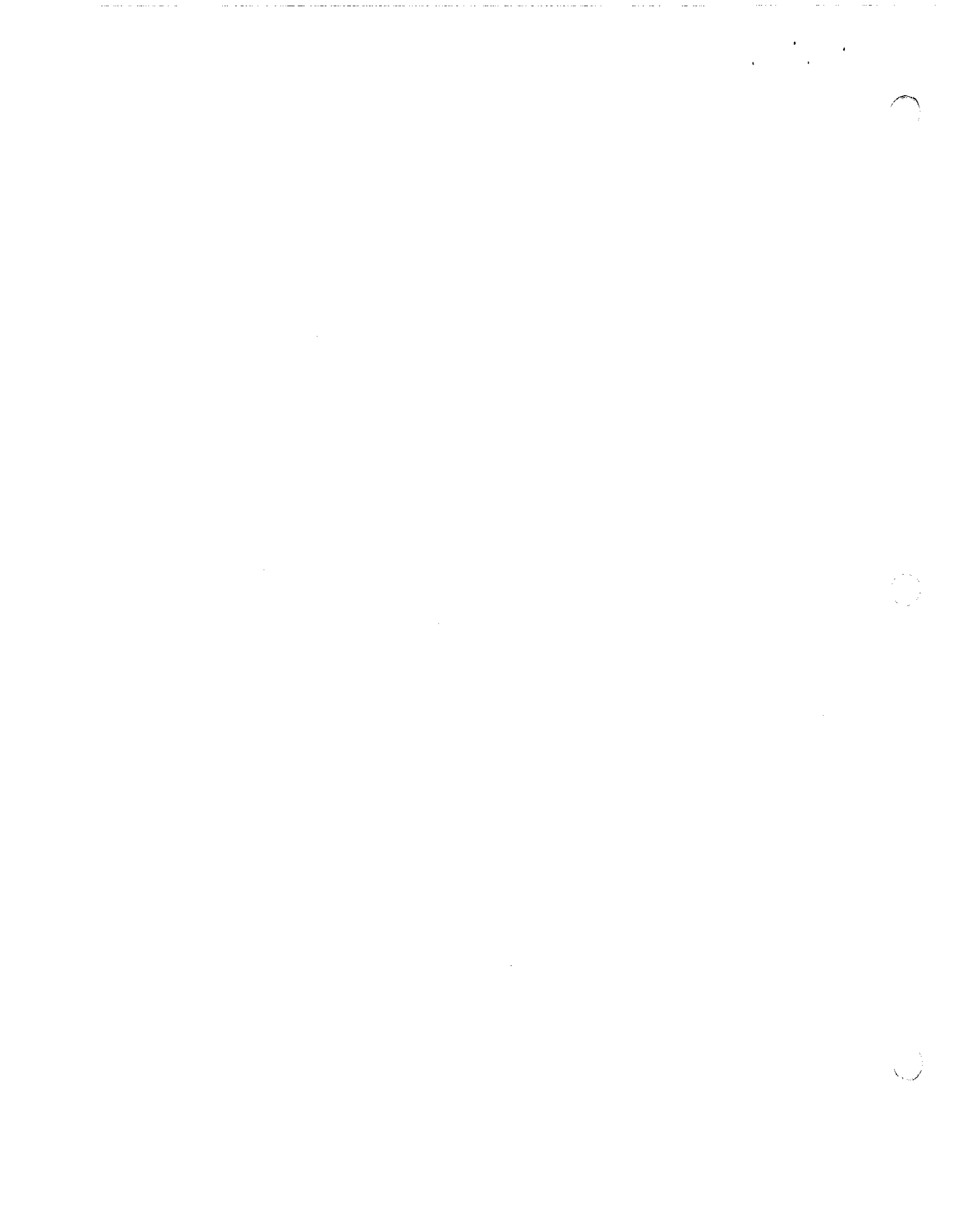
(b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.

(c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

- (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.



- (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a One (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the Once (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 - (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 - (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (6) Recreational Vehicles. Recreational vehicles shall either:
 - (a) Temporary Placement
 - (i) Be on site for fewer than 180 consecutive days; or
 - (ii) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)
 - (b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
- (7) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
 - (a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
 - (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or



restroom areas);

- (b) Accessory structures shall not be temperature-controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;
- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (e) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A(1);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A(4); and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(d).

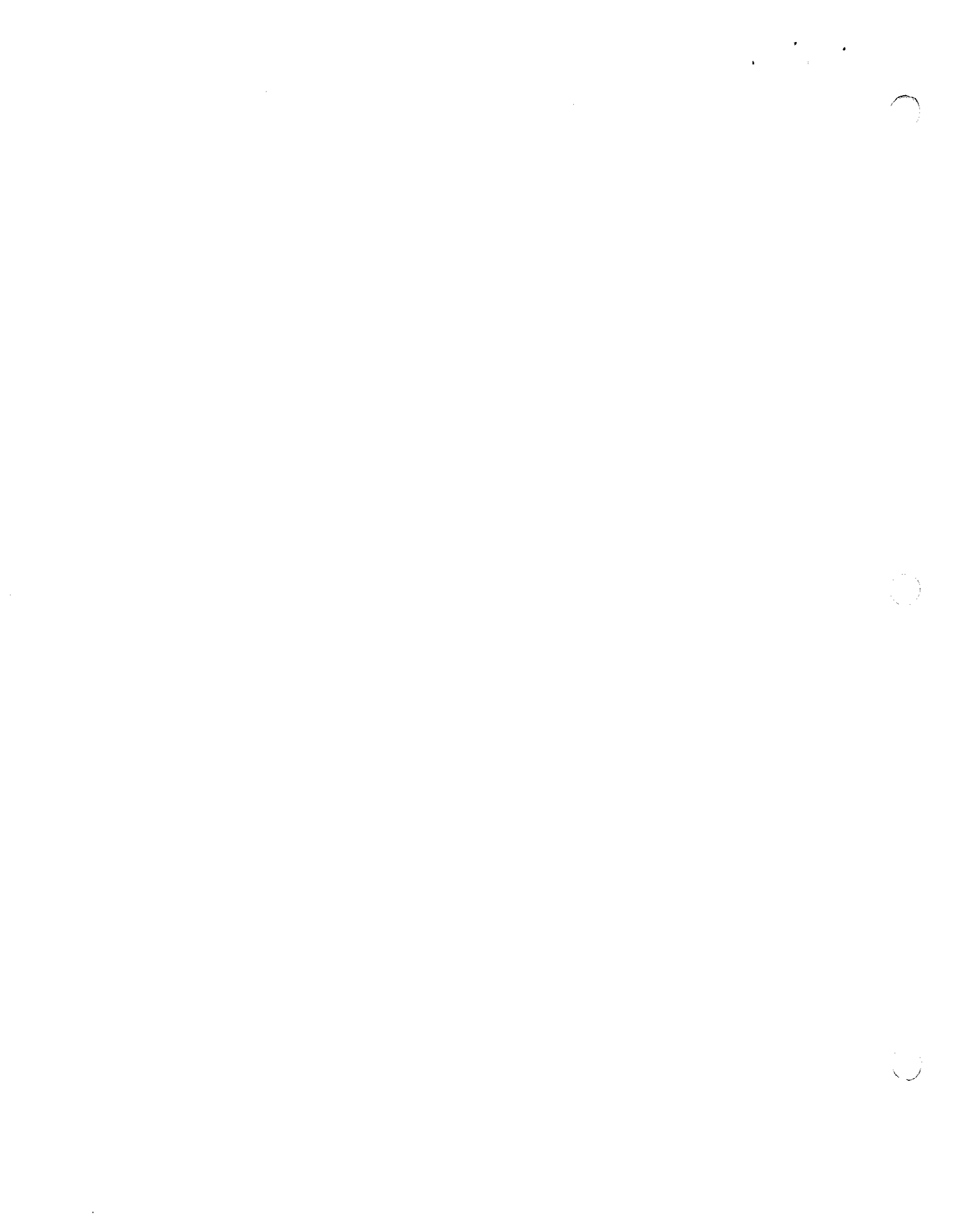
An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B(3).

(9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
- (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Article 5, Section B (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
- (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) Other Development.

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.
- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section



F of this ordinance.

- (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

SECTION C. RESERVED.

SECTION D. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

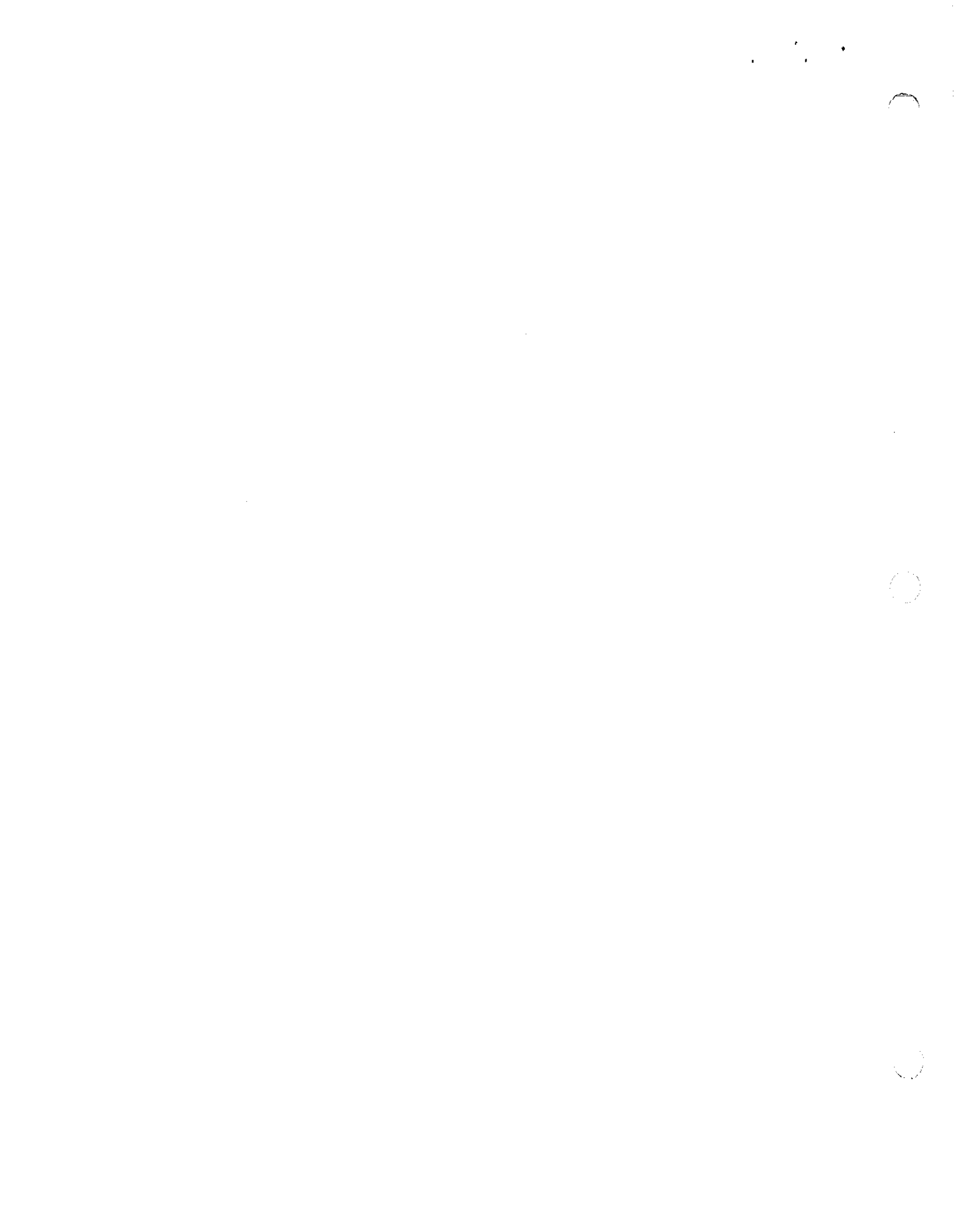
Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, 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.
- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.
 - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.
 - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.
 - (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

SECTION E. STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the



base flood more than one (1) foot at any point within the community.

SECTION F. FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If Article 5, Section F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) Manufactured homes may be permitted provided the following provisions are met:
 - (a) The anchoring and the elevation standards of Article 5, Section B(3); and
 - (b) The encroachment standards of Article 5, Section F(1).

SECTION G. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section G(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be 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. Certification is required in accordance with Article 4, Section B(3) and Article 5, Section B(2).
- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION H. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in



this zone. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

ARTICLE 6. LEGAL STATUS PROVISIONS.

SECTION A. EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of THE Town of Mount Gilead which are not reenacted herein are repealed.

SECTION B. EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

SECTION C. SEVERABILITY.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION D. EFFECTIVE DATE.

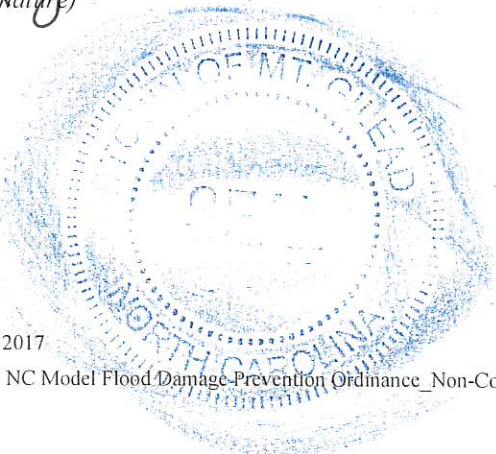
This ordinance shall become effective January 8, 2019.

SECTION E. ADOPTION CERTIFICATION.

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Board of Commissioners of the Town of Mount Gilead, North Carolina, on the 8th day of January, 2019.

WITNESS my hand and the official seal of Amy Roberts, Town Clerk, this the 8th day of January, 2019.

Amy C. Roberts
(signature)







TOWN OF MOUNT GILEAD

GOLF CARTS ON CERTAIN PUBLIC STREETS ORDINANCE

WHEREAS, the Board of Commissioners of the Town of Mount Gilead (herein the "Board") deem it to be in the best interest of the public, health and safety of the citizens of the Town of Mount Gilead (herein the "Town") to permit golf carts to be driven on certain public streets of the Town subject to certain conditions and requirements necessary to protect the public safety, health and welfare of the citizens and residents of the Town.

WHEREAS, the establishment of a golf cart ordinance is necessary to address the interests of public safety. Golf carts, are not designed or manufactured to be used on public streets, roads and highways, hereinafter "road(s)," and the Town, by regulating such operation is merely trying to address obvious safety issues, and adoption of this Ordinance is not being relied upon as a determination that operation on roads is safe or advisable if done in accordance with this ordinance. All persons who operate or ride upon carts on roads do so at their own risk and peril and must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and pedestrians. The Town has no liability under any theory of liability for permitting carts to be operated on roads under special legislation granted by the State Legislature. Any person who operates a cart must procure liability insurance sufficient to cover the risks involved in using a cart on the roads of the Town.

NOW THEREFORE, the Board of Commissioners of the Town of Mount Gilead adopts the following Ordinance:

New Article 74 shall be added to CHAPTER VII: TRAFFIC of the Code of Ordinances of the Town of Mount Gilead as follows:

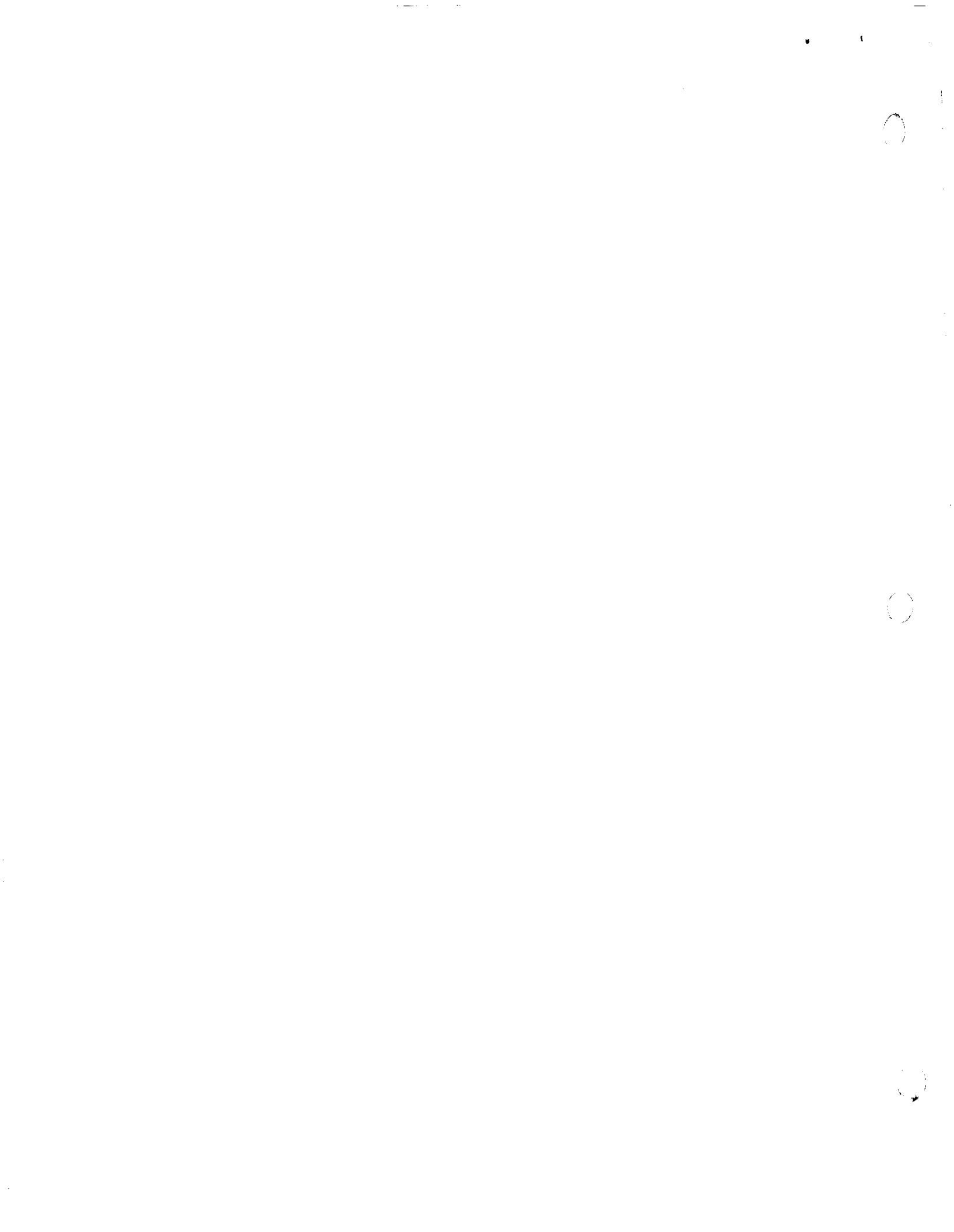
ARTICLE VI: GOLF CARTS ON CERTAIN PUBLIC STREETS

§ 74-1.0 PURPOSE.

The Ordinance established by this shall be to establish a Golf Cart Ordinance within the Town to promote health, safety and welfare of persons operating cart(s) within the Town and to protect the safety of their passengers and other users of the roads.

§ 74-2.0 FINDINGS; AUTHORITY.

1. The Town finds and determines that:
 - a. Establishment of a Golf Cart Ordinance and transportation plan will serve to expand mobility to those persons not operating automobiles



- b. The selected areas for golf car travel will be roads and highways within the Town limits of Mount Gilead and with speed limits of 35 mph or less (unless otherwise stated) and will not cause an adverse impact upon traffic safety; and
 - c. The regulations and use of golf carts on streets and highways in the Town will fall under the provisions outlined throughout this ordinance and will require liability insurance sufficient to cover the risk involved in using a golf cart on the streets of the Town of Mount Gilead.
2. The Town has statutory authority to adopt this Ordinance pursuant the provisions of NCGS 160A-300.6.

§ 74-3.0 DEFINITIONS.

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

1. *Golf Cart*: A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 MPH. G.S. 20-4.01(12a). This does not include vehicles known as all-terrain vehicles (ATVs) or go-carts.
2. *Driver's License*: A valid license issued to operate a motor vehicle issued by North Carolina or any other state.
3. *Financial Responsibility*: Liability insurance coverage on a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highways in the State of North Carolina.
4. *Operator*: Only persons over 16 years of age and holding a valid driver's license may operate a golf cart on the roads.
5. *Plan Area*: The area within the Town limits that golf carts will be allowed to travel which includes any public street or highway (not restricted elsewhere in this ordinance) within the Town limits with a speed limit of 35 miles per hours or less and controlled by the Town.
6. *Town*: The Town of Mount Gilead, NC.

§ 74-4.0 GOLF CART DESIGN CRITERIA.

1. Minimum golf cart vehicle design criteria and travel plan areas established. In order for a golf cart to pass the Town inspection it must meet the requirements or minimum standards of safety equipment as set forth in this Ordinance. Golf carts must have basic equipment supplied by the manufacturer, including a vehicle identification or serial number. Such equipment must include all safety devices as installed by said manufacturer, including rear view mirror and a rear triangle reflector of the same type required by North Carolina Law.
2. The following elements are minimum design and equipment requirements:
 - a. The golf cart must be the shape and size that conforms to industry standards for manufactured golf carts; and
3. The golf cart must be equipped and safely operated with:
 - a. Either an unobstructed rear-view mirror and left side mirror, or a wide angle cross bar rear-view mirror;



- b. Head lights and tail lights if it is to be driven after dark and slow moving vehicle emblems that conform to G.S. 20-129;
- c. Golf carts may have "lift kits" but no golf cart may be more than 22" high measured from the ground to the floorboard of the cart.
- d. Golf carts must be equipped with two (2) operating headlights, one on each side of the front of the golf cart, and two (2) operating tail lights, one on each side of the rear of the golf cart, all four of which must be visible from a distance of 500 feet. The owner of a registered golf cart must maintain the golf cart in good condition and state of repair at all times.
- e. Any other requirements as set forth by the Mount Gilead Police Department for inspection in order to ensure safe operation under Section 10-6.7 below.

§ 74-5.0 REGISTRATION PROCESS AND FEE PRIOR TO USAGE.

1. Any person seeking to use a golf cart as permitted under this Article must complete a golf cart registration application and submit it to the Mount Gilead Police Department for approval prior to usage on a public road. Before driving on public roads, the operator of a golf cart must have a validly issued registration from the Mount Gilead Police Department. The cost for processing the application for the initial registration shall be \$50.00 which will be due at the time of registration. After the initial registration, the golf cart must be renewed annually at a cost of \$20.00. Upon approval, the registration sticker issued by the Mount Gilead Police Department must be displayed on the driver's side front fender or windshield of the golf cart so that it is easily visible to law enforcement personnel.
2. Each owner must have proof of ownership and liability insurance. These documents must be in the golf cart at all times when the golf cart is being operated on any public road. Copies of such documents must be filed with the Mount Gilead Police Department. All golf cart operators must present a valid driver's license while operating a golf cart on a public road. The registration sticker shall be valid for no more than one year and must be visible on a golf cart operated on a public road. Lost or Stolen Registration Stickers are the responsibility of the owner and must be replaced before the golf cart is open operated on a public road.

§ 74-6.0 OPERATION RESTRICTIONS – RULES AND REGULATIONS

The following restrictions limiting the operation of golf carts in the Town and the following rules and regulations shall apply:

1. Only those golf carts that have the necessary safety equipment specified herein and have obtained the proper registration sticker from the Town may be operated under the provisions of this Article;
2. Golf cart transportation is limited to those streets and highways within the Town limits which have a posted speed limit of 35 miles per hour or less (unless otherwise noted below);
 - a. Golf carts may not be operated on the following streets or roadways regardless of the speed limit:
 - 1) Any portion of Main Street (NC Highway 73).

- 2) Any portion of Julius Chambers Boulevard (NC Highway 109 North),
- 3) Any portion of Wadesboro Boulevard (NC Highway 109 South),
- 4) Any portion of Allenton Street (NC Highway 731),
3. A golf cart operator must maintain his or her golf cart in a safe condition at all times;
4. The golf cart must have displayed a slow-moving vehicle emblem on the back of the cart and
5. Golf carts without headlights and taillights may not be operated on municipal streets at any time.
6. Golf carts may cross a road with a posted speed limit greater than 35 mph. However, once the segment of road has been traversed, the golf cart is still required to travel only on or along a roadway with a speed limit of 35 mph or less. Golf carts must cross in a manner that is the most direct route in order to decrease crossing distance, i.e., no riding along a road or crossing at an angle. Under no circumstance is a golf cart allowed to cross a control access facility other than at bridges which cross over or under a control access facility.
7. Golf carts shall not be operated on or alongside a public road or street with a posted speed limit greater than 35 miles per hour.
8. Any person who operates a golf cart must be responsible for all liability associated with operation of the golf cart and must have liability insurance coverage which will cover the use of a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highways in the State of North Carolina.
9. Any person who operates a golf cart must be at least sixteen (16) years of age or older. No person may operate a golf cart unless that person is licensed to drive upon the public streets, roads, and highways of North Carolina and then, only in accordance with such valid driver's license. Golf cart operators must carry their driver's license on their person at all times while operating a golf cart on public roads.
10. Any person who operates a golf cart on public streets and roads must adhere to all applicable State and local laws, regulations and ordinances, including but not limited to those banning the possession and use of alcoholic beverages, and all other illegal drugs. In addition, no golf cart containing any open container of alcohol shall be operated on public roads.
11. The operator of the golf cart shall comply with all traffic rules and regulations adopted by the State of North Carolina and the Town which governs the operation of motor vehicles.
12. An operator may not allow the number of people in the golf cart at any time to exceed the maximum capacity specified by the manufacturer. The operator shall not allow passengers to ride on any part of a golf cart not designed to carry passengers, such as the part of the golf cart designed to carry golf bags.
13. In no instance shall a golf cart be operated at a speed greater than 20 miles per hour. No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions.
14. Golf carts must be operated at the right edge of the roadway and must yield to all vehicular and pedestrian traffic.

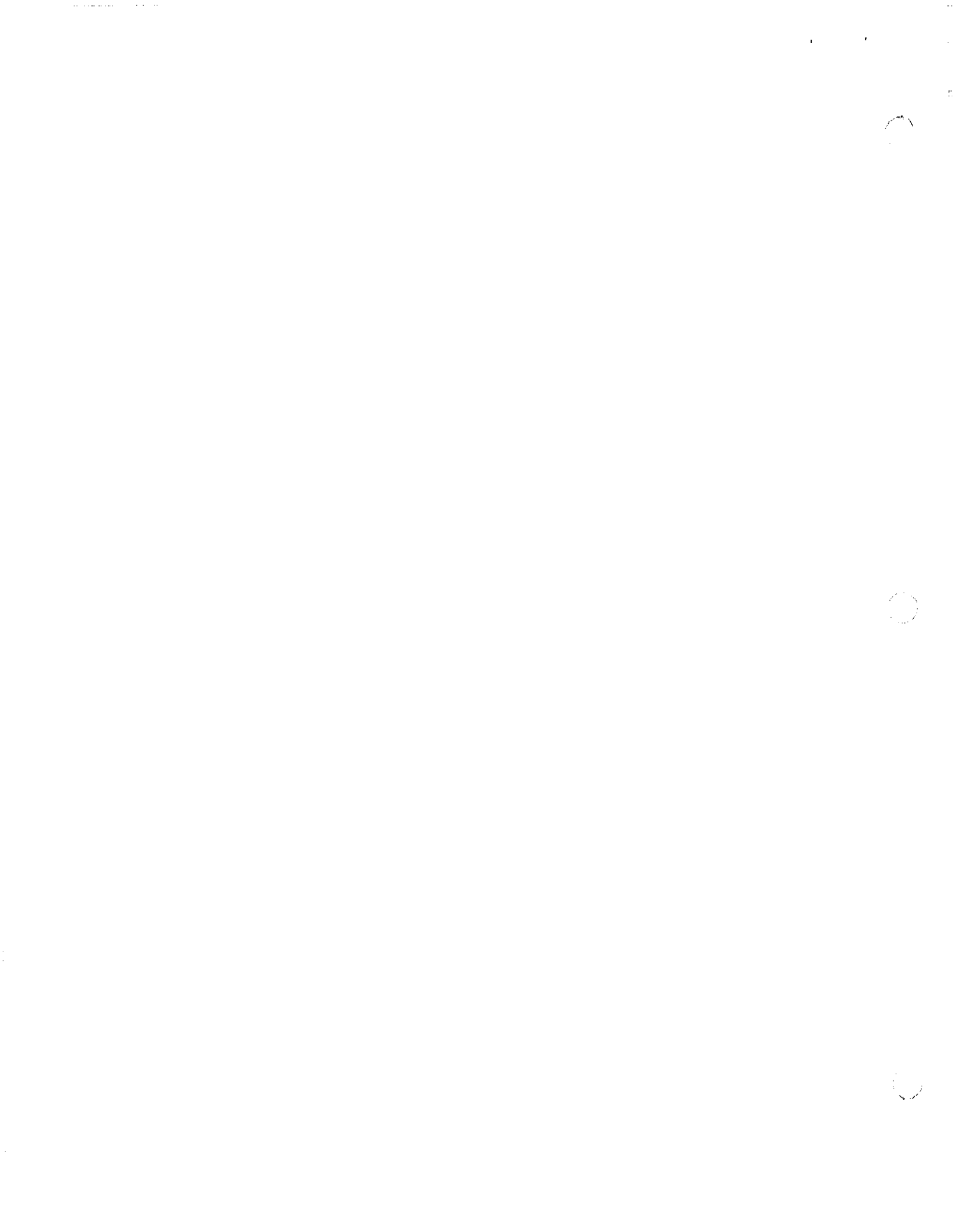


15. Golf carts must park in designated spaces in such a manner that multiple golf carts can utilize the space. All parking rules and limits apply. No parking on sidewalks is allowed.
16. Golf carts must have basic equipment supplied by the manufacturer, including a vehicle identification or serial number. Such equipment must include all safety devices as installed by said manufacturer, including rear view mirror and a rear triangle reflector of the same type required by North Carolina law.
17. Golf carts without lights may be operated during daylight hours. Golf carts meeting the requirements set forth below may operate at any time:
 - a. Golf carts having two (2) operating headlights, one on each side of the golf cart and two (2) operating tail lights, one on each side of the rear of the cart, all four (4) lights must be visible from a distance of 500 feet; and
 - b. If a mechanical turn signal indicator is not installed, then hand signals are required for turns.

§ 74-7.0 **OPERATION ON TOWN STREETS AND ROADS WITHIN THE PLAN AREA.**

It shall be unlawful to operate a golf cart on a public street or road within the Plan Area unless the following requirements are met:

1. Golf cart must display a slow moving vehicle emblem on the back of the golf cart;
2. Golf carts must display a valid Town registration sticker.
3. Golf carts must be operated in accordance with all applicable state and local laws and ordinances pertaining to the possession and use of drugs and alcoholic beverages;
4. Golf carts shall not be operated during inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions;
5. Golf carts shall not be operated in a negligent manner. For the purpose of this section (E), **TO OPERATE IN A NEGLIGENT MANNER** is defined as the operation of a golf cart in such a manner as to endanger any person or property, or to obstruct, hinder or impede the lawful course of travel of any motor vehicle or the lawful use by any pedestrian of public streets, sidewalks, paths, trails, walkways, or parks;
6. The Town may prohibit operation of golf carts on any street or highway if the Town Board of Commissioners determine that the prohibition is necessary in the interest of safety; and
 - a. Golf carts may not be operated on any public street or roadway in the Town during one half hour after sunset to one half hour before sunrise and less equipped with the proper headlights and taillights listed above.
7. Golf carts must be parked in accordance with the laws and ordinances which apply to any parked vehicle in the Town.
8. Golf carts are strictly prohibited from traveling upon or parking on any sidewalk within the Town.
9. Golf carts are required to follow the rules and regulations of any other vehicle during special events and are not permitted to enter special event areas unless the golf cart is listed on the special event permit and a part of the event.



10. Golf carts must be operated at the right edge of the roadway and must yield to all vehicular and pedestrian traffic.

§ 74-8.0 SAFETY INSPECTION.

1. No golf cart may be operated on any street or highway in the Town without first passing a safety inspection which will be conducted prior to the issuance of a Town registration sticker. Furthermore, no registration sticker will be issued until the operator presents proof that the golf cart is fully insured, and the operator has a valid North Carolina driver's license or recognized valid driver's license from another state.
2. To pass the safety inspection for the Town and to obtain a special use permit, the golf cart must have the following:
 - a. Headlights and taillights if the operator plans drive after dark.
 - b. Rubber or equivalent tires;
 - c. Adequate steering gear, emergency or parking brake, rearview mirror, adequately fixed driver's seat;
 - d. All other factory installed safety or mechanical systems, including checking for gasoline or propane leaks;
 - e. Speed governor if gasoline powered; and
 - f. Golf carts with "lift Kits" may not be more than 22" high measured from floorboard of car to the ground.

§ 74-9.0 INSURANCE REQUIREMENTS

Every golf cart and driver thereof shall have in full force and effect a valid insurance policy meeting the Financial Responsibility requirements set forth in GS 20-309 of the state motor vehicle laws and other applicable state law requirements.

§ 74-10.0 LIABILITY DISCLAIMER

This Ordinance is adopted to address the interest of public safety. Golf carts are not designed or manufactured to be used on public streets in the Town in no way advocates or endorses their operation on public streets and roadways the Town by regulating such operation is merely trying to address obvious safety issues and adoption of this section is not to be relied upon as a determination that operating on public streets and roadways is safe or advisable if done in accordance with this section all persons who operate or run upon golf carts on public streets or rides do so at their own risk and peril and must be observant of inattentive to the safety of themselves and others including their passengers other motorist bicycles and pedestrians the Town has no liability under any theory of liability and the Town assumes no liability for permitting golf carts to be operated on public streets and roadways. Persons who operates a golf cart are responsible for procuring liability insurance sufficient to cover the risk involved in using a golf cart on the public streets and roadways

§ 74-11.0 ENFORCEMENT



Violation of the provisions of this Ordinance shall constitute an infraction in accordance with Chapter 20 of the North Carolina General Statutes, the maximum penalty for which shall be Twenty dollars (\$20.00) and such other penalties and fines as by law provided. In addition, the special use permit of the violator shall be revoked for a period of one year.

§ 74-12.0 PENALTY FOR VIOLATIONS OF THIS ARTICLE

Any violation of the sections of this Article shall subject the violator to those civil penalties hereinafter set forth. Unpaid civil penalties may be recovered by the Town in a civil action in the nature of a debt against the violator

1. Generally. Any person violating any provision of this chapter for which no other penalty is provided shall be subject to the penalty provisions of this Section 74-12.0.
2. Notice to be affixed. Whenever a member of the Mount Gilead Police Department or other person authorized with the enforcement of the provisions of this chapter regulating parking of vehicles shall find any of those provisions are being or have been violated by the owner or operator of the vehicle the officer or person shall notify the owner or operator of the vehicle of the violation by conspicuously attaching to the vehicle a parking violation notice or citation.
3. Responsibility for penalty. Upon receiving a notice or citation serving as notice of violation of the parking regulations set forth in the sections the owner or operator of the vehicle found violation shall be responsible for penalties herein established.
4. Any penalty for parking violation that is not paid within 15 days of issuance will accrue an additional penalty of five dollars per 15 days it remains unpaid after 15 days of issuance of a parking violation a delinquent notice will be mailed to the registered owner of the vehicle
5. The maximum total combined civil penalty for a single \$20 violation shall be \$50. When the maximum is reached for either a single violation or three or more violations are committed by the same violator, owner or operator he or she may be notified in writing that the Town intends to pursue a civil action to collect the accrued civil penalty amount.

Ordinance voted on and adopted this 4th day of December, 2018.





**AN ORDINANCE TO AMEND THE TOWN OF MOUNT GILEAD CODE OF ORDINANCES
CHAPTER 91: ANIMALS FOR THE PURPOSE OF ESTABLISHING A LEASH LAW
AND UPDATING ANIMAL CRUELTY REGULATIONS**

WHEREAS, the health and safety of the citizens and visitors of Mount Gilead are of paramount importance to the Mount Gilead Board of Commissioners; and

WHEREAS, the Mount Gilead Board of Commissioners recognizes the importance of ensuring a safe, healthy and compassionate community for both citizens and animals; and

WHEREAS, the North Carolina General Statutes §160A-186 establishes that municipalities may by ordinance regulate, restrict, or prohibit the keeping, running, or going at large of any domestic animals, including dogs and cats; and

WHEREAS, the Town of Mount Gilead has adopted an animal regulation ordinance and may amend it from time to time; and

WHEREAS, the Mount Gilead Board of Commissioners recognizes the need to encourage humane and responsible pet ownership; and

WHEREAS, the Mount Gilead Board of Commissioners has determined that the control of animals and the prevention of cruelty to animals are necessary to provide for the public health, safety and welfare.

NOW, THEREFORE BE IT ORDAINED BY THE TOWN OF MOUNT GILEAD BOARD OF COMMISSIONERS, THAT the Town of Mount Gilead Code of Ordinances Chapter 91 Animals is amended with the creation of Section §91.19 Dogs Running at Large to read as follows:

§91.19 Dogs Running at Large

All dogs within the corporate limits of the town shall be kept under restraint or under the control of their owner/custodian or of a handler at all times. This excludes dogs still under their owner/custodian or of a handler's control on their own property. Unattended dogs must be properly enclosed in a suitable pen.

Any dog found within the corporate limits of the town not under the restraint of its owner/custodian or of a handler shall be deemed to be running at large and may be restrained or impounded by a County Animal Control Officer or other official as designated by the Town Manager.

It shall be unlawful for any owner/custodian or any other person having possession, charge, custody or control of any dog to take the dog into or allow the dog to enter any public area, right-of-way or park without the dog being at all times under the restraint of a leash.

Any owner, keeper or person in charge of possession and control of any such dog who violates the provision of this section shall be subject to the penalties in §91.99.

AND THAT, Chapter 91 be further amended with the creation of Section §91.20 Removal of Excrement Required to read as follows:

§91.20 Removal of Excrement Required

No owner, keeper, or person in charge of the possession and/or control of any dog shall cause or allow the dog to defecate or otherwise commit any nuisance on any street, sidewalk, park, public right-of-way, or other publicly owned area unless the excrement is immediately removed by said owner, keeper, or person in charge of the dog and deposited in an appropriate waste container.

Any owner, keeper, or person in charge of the possession and/or control of any dog who violates the provisions of this section, shall be subject to the penalties in §91.99.

AND THAT, Section §91.02 Cruelty to Animals of Chapter 91 is amended by adding the following language immediately after the existing text:

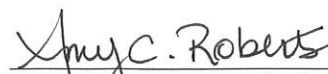
It is unlawful for the owner of any animal to fail to:

- (A) Provide at suitable intervals, and at least once every 24 hours, a quantity of wholesome foodstuff suitable for the species' physical condition and age, and sufficient to maintain an adequate level of nutrition for the animal;
- (B) Provide continuous access to a supply of clean, fresh, potable water, either free-flowing or in a receptacle;
- (C) Provide proper enclosure for the animal as defined in this chapter to also include suitable cover from the sun and inclement conditions;
- (D) Provide veterinarian care and medical treatment for debilitating injuries, parasites and disease sufficient to maintain the animal in good health and minimize suffering; and
- (E) Shelter or enclose an animal in any place that does not provide adequate drainage.

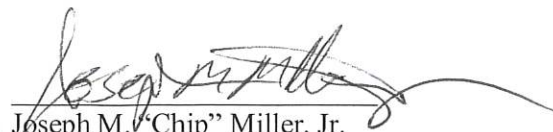
Any owner, keeper, or person in charge of the possession and/or control of any dog who violates the provisions of this section, shall be subject to the penalties in §91.99.

AND THAT, this Ordinance shall take effect on the 1 day of MAY, 2021.

PASSED AND DULY ADOPTED on this, the 2nd day of March, 2021.


Amy C. Roberts, NCCMC
Town Clerk

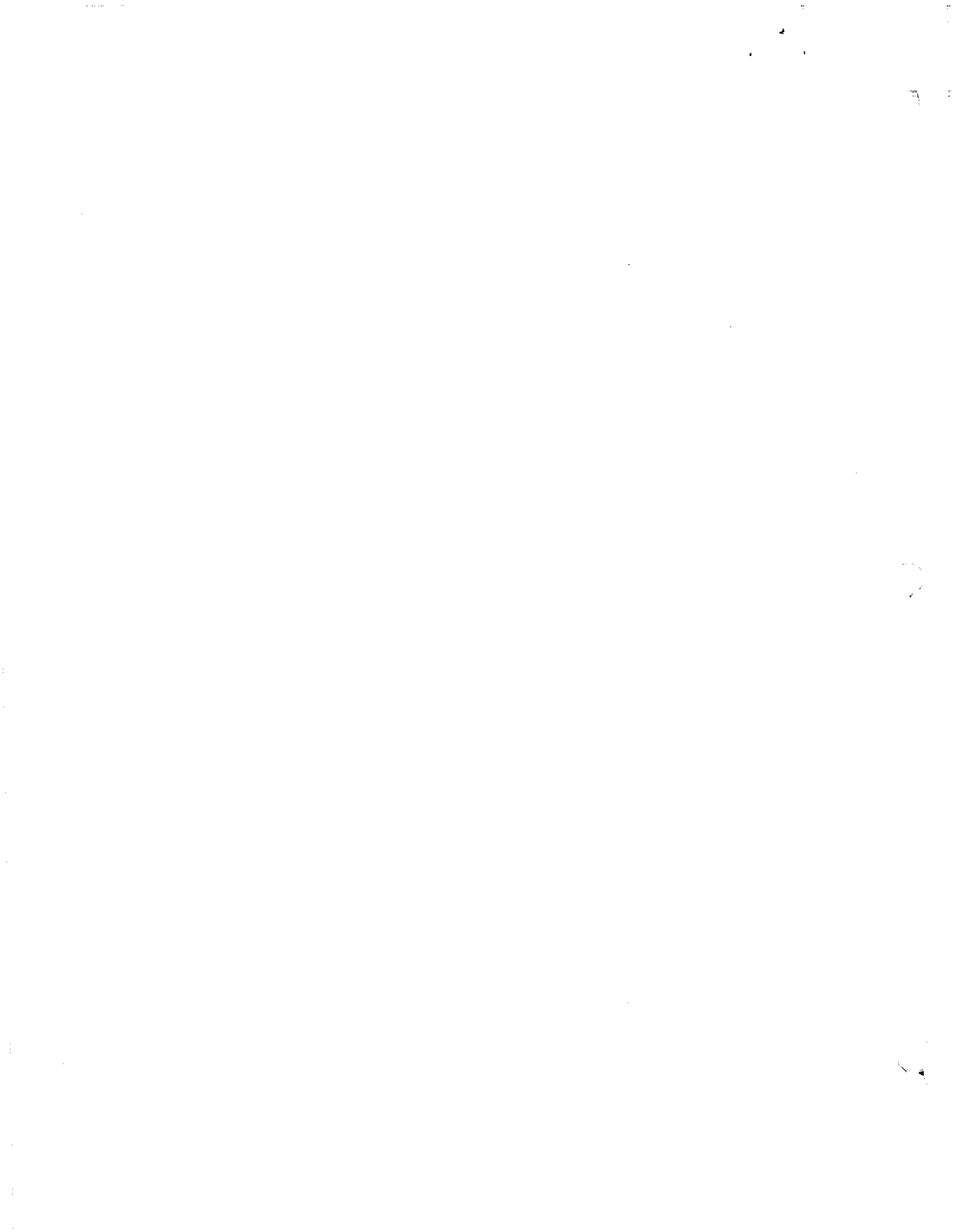



Joseph M. "Chip" Miller, Jr.
Mayor

FLOOD DAMAGE PREVENTION ORDINANCE

Non-Coastal Regular Phase

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