

City of High Point

*Municipal Office Building
211 S. Hamilton Street
High Point, NC 27260*



Meeting Agenda

Wednesday, May 18, 2022

4:00 PM

3rd Floor Council Chambers

Public Safety Committee

*Victor Jones, Chair
Britt Moore
Tyrone Johnson
Chris Williams
Mayor Jay Wagner (Alternate)
Mayor Pro Tem (Alternate)*

Public Safety Committee - Council Member Jones, Chair

CALL TO ORDER

PRESENTATION OF ITEMS

[2022-255](#)

Discussion: Decriminalization of Code of Ordinances

Staff will be discussing the Decriminalization of Code of Ordinances.

Attachments: [Agenda Cover Sheet - Decrim](#)

[SB 300 - Code Revisions for Public Safety Cmte Review \(Version 5.4.22\)](#)

[Summary of Decriminalization Revisions to High Point's Code \(5.18.22\)](#)

ADJOURNMENT

**CODE OF THE CITY OF
HIGH POINT, NORTH CAROLINA**

The General Ordinances of the City

Ordained and Published
By Order of the
City Council

municode



Municipal Code Corporation P.O. Box 2235 Tallahassee, FL 32316
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OFFICIALS
OF THE
CITY OF HIGH POINT, NORTH CAROLINA

MAYOR
William S. Bencini, Jr.

CITY COUNCIL MEMBERS

Cynthia Y. Davis
James C. Davis
Jason P. Ewing
Jeffrey J. Golden
Alyce E. Hill
Alexander B. Latimer, IV
Jay W. Wagner
Christopher Williams

CITY CLERK
Lisa B. Vierling

CHAPTER 1 Use and Construction of the Code

Sec. 1-1-1. How code designated and cited.

The provisions of the following titles, chapters, articles, and sections shall constitute and be designated "The Code of Ordinances of the City of High Point, North Carolina-~~1982~~," and may be so cited. Such Code may also be cited as "High Point Code."

(Code 1958, Sec. 1-1)

State law reference(s)—~~Admission of Code in evidence~~Code of Ordinances, G.S. 160A-797, ordinance book, G.S. 160A-78; pleading and proving city ordinances, G.S. 160A-79.

Sec. 1-1-2. Definitions and rules of construction.

In the construction of this ~~code~~Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the city council or the context clearly requires otherwise:

- (1) *City.* The words "the city" shall mean the City of High Point.
- (2) ~~Code.~~ The words "the Code" and "this Code" shall mean the Code of Ordinances of the City of High Point, North Carolina.
- (3) ~~Computation of time.~~ The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be Sunday or a legal holiday, that shall be excluded.
- (34) ~~Council.~~ The words "the council" shall mean the council of the City of High Point, North Carolina.
- (45) ~~County.~~ The words "the county" shall mean the respective counties of Guilford, Randolph and Davidson, North Carolina, except as otherwise provided.
- (56) ~~Gender.~~ Words importing the masculine gender shall include the feminine and neuter.
- (67) ~~In the city or within the city.~~ shall mean any territory, the jurisdiction of which, for the exercise of its regulatory power, has been conferred by general or special law.
- (78) ~~Joint authority.~~ All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
- (89) ~~May.~~ The word "may" is permissive.
- (910) ~~Month.~~ The word "month" shall mean a calendar month.
- (1011) ~~Number.~~ Words used in the singular include the plural and the plural includes the singular number.
- (1112) ~~Oath.~~ The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

- (1213) *Owner.* The word "owner" when applied to buildings or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.
- (1314) *Person.* The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.
- (1415) *Personal property* includes every species of property except real property, as herein defined.
- (1516) *Preceding, following.* The words "preceding" and "following" shall mean next before and next after, respectively.
- (1617) *Property.* The word "property" shall include real and personal property.
- (1718) *Real property* shall include lands, tenements and hereditaments.
- (1819) *Shall.* The word "shall" is mandatory.
- (1920) *Sidewalk.* The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians.
- (2021) *Signature or subscription* includes a mark when the person cannot write.
- (2122) *State.* The words "the state" shall mean the State of North Carolina.
- (2223) *Street.* The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the city.
- (2324) *Tenant.* The words "tenant" and "occupant" applied to a building or land, shall include any person who occupies the whole or part of such building or land whether alone or with others.
- (2425) *Time.* Words used in the past or present tense include the future as well as the past and present.
- (2526) *Writing.* The words "writing" and "written" shall include printing and any other mode of representing words and letters.
- (2627) *Year.* The word "year" shall mean a calendar year.

State law reference(s)—Rules of construction, G.S. 123; computation of time, G.S. 1-593.

Sec. 1-1-3. Catchlines of sections.

The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of the sections, nor as any part of the section, nor, unless expressly provided, shall they be so deemed when any of the sections, including the catchlines, are amended or re-enacted.

(Code 1958, Sec. 1-3)

Sec. 1-1-4. ~~Criminal penalty, not exclusive remedy, continuing violations~~ **Enforcement and Appeals.**

- (a) ~~Any violation of a section of the Code of Ordinances that is specifically designated as a misdemeanor shall be a Class 3 misdemeanor and any person convicted of the violation shall be subject to punishment in accordance with as provided in G.S. 14-4. In accordance with G.S. 160A-175, and unless this code of ordinances provides otherwise, violation of any provision shall be a misdemeanor as provided in G.S. 14-4, punishable upon conviction by a fine not exceeding \$50 or by imprisonment not exceeding 30 days. An ordinance may provide by express statement that the maximum fine or term of imprisonment to be imposed~~

Commented [LAM1]: This section is meant to apply generally to the entire Code. In addition to this, we have a criminal designation in each specific section.

for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. 14-4. Unless a violation is specifically designated as a misdemeanor, the violation shall not constitute a misdemeanor or infraction punishable under G.S. 14-4, but instead shall be subject to civil penalties and remedies in accordance with this section and G.S. 160A-175.

- (b) By express statement, an ordinance contained herein may provide for its enforcement by other remedies, as the Code of Ordinances may be enforced by any one, all, or combination of the remedies authorized in G.S. 160A-175, including the imposition of civil fines; recoverable in the nature of debt or the ordering of appropriate equitable relief, including orders of abatement and injunctions, or a combination of remedies.
- (c) An ordinance may provide, when appropriate, unless otherwise specified, that each day's continuing violation of any section of the Code shall be a separate and distinct violation or offense.
- (d) Any violation of the Code by any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization, while acting within the scope of his office or employment, shall in every case also be deemed to be a violation by such corporation, association, or organization. Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment as well as such corporation or unincorporated association or organization for the violation by it of any section of this Code, where such violation was the act or omission, or the result of the act, omission, or order, of any such person.
- (e) Unless otherwise provided within a particular section of the Code or by state law, written notice of a violation by certified or registered mail to the violator's last known address, by personal service, or by posting notice conspicuously on property owned by the violator(s), shall be provided to the violator(s) for all civil violations and shall include all of the following:
- A. Notice that a civil violation of the Code exists;
 - B. The nature of the violation and citation to the section(s) of the Code that were violated;
 - C. The measures necessary to remedy the violation;
 - D. The time period in which the violation must be corrected;
 - E. That penalties may be assessed, and remedies sought, by the City of High Point; and
 - F. That the party cited has the right to appeal the notice of violation in accordance with the Code.
- (f) Notices of violation for civil violations may be issued, and civil penalties authorized by the Code may be assessed, by any officer, employee, or agent of the City responsible for the administration and enforcement of the provision; or by any other officer, employee, agent, or other person who is authorized by the city manager to enforce the provision.
- (g) Unless otherwise provided within a particular section of the Code or by state law, any person who violates any provision of the Code, shall be subject to assessment of a civil penalty in the amount of \$50.00 for the first violation, \$100.00 for the second violation, \$200.00 for the third violation, and \$500.00 for the fourth and each succeeding violation.
- (h) Provisions of this Code may be enforced by an appropriate equitable remedy, including but not limited to an injunction or order of abatement, 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. 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 city may execute the order of abatement.
- (i) This Code may be enforced by any one, all, or a combination of the civil remedies authorized and prescribed under the provisions of G.S. 160A-175.

Commented [TNE2]: Added this language to ensure that any funds received for penalties that result from a non-criminalized violation go to the City's general fund and not the school board.

Commented [TNE3]: Added language to this general section regarding how to handle civil violations and used Charlotte, Winston Salem, Greensboro and other jurisdictions as examples.

Commented [TNE4]: I went ahead and made the civil penalties the same as they are for the DO to address the situations where a section states that a civil fine can be assessed (e.g., Section 11-6-11), but doesn't say how much or how the civil fine/penalty is assessed? I used Charlotte, Winston Salem, Greensboro and other jurisdictions as examples.

Commented [TNE5]: Added language to specify (like the DO) that NOV's should be issued for civil violations and what the NOV's should contain.

Commented [TNE6]: I went ahead and made the civil penalties the same as they are for the DO to address the situations where a section states that a civil fine can be assessed (e.g., Section 11-6-11), but doesn't say how much or how the civil fine/penalty is assessed? I used Charlotte, Winston Salem, Greensboro and other jurisdictions as examples.

Commented [TNE7]: Subsections (h) and (i) are meant to incorporate the authority under G.S. 160A-175 for clarity.

(hi) Unless another procedure is established for a particular violation within a section of the Code or by state law, any person assessed a notice of violation or civil penalty may appeal by filing a written notice of appeal with the city within 30 days from the date of the notice or assessment. Failure to file a notice of appeal within this time period shall constitute a waiver of the right to contest the notice of violation or civil penalty. Appeals shall be heard by a hearing officer designated by the city manager through a quasi-judicial process. The city manager may establish rules and procedures that govern the appeal and quasi-judicial hearing process. Such rules may include a requirement that, for specified violations, a bond equal to the amount of the civil penalty be posted at the time a notice of appeal is filed. A hearing officer's decision on a violation or civil penalty appeal is subject to further review in the superior court of the county by proceedings in the nature of certiorari in accordance with G.S. 160D-1402. Any petition for writ of certiorari shall be filed with the clerk of superior court within 30 days after the date that the hearing officer's written decision is issued.

Commented [TNE8]: Since there are many sections that don't have an appeal section, this language is meant to standardized the appeal process.

Commented [TNE9]: This is the way I've seen other ordinances, but if High Point would prefer for these appeals to be heard by the Board of Adjustment, we can change the language accordingly.

State law reference(s)—Violation of city ordinances a misdemeanor, G.S. 14-4; enforcement of ordinances, G.S. 160A-175; Appeals in the nature of certiorari, G.S. 160D-1402.

Sec. 1-1-5. Severability of parts of code.

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code, since they would have been enacted by the city council without the incorporation in this code of any unconstitutional phrase, clause, sentence, paragraph or section.

(Code 1958, Sec. 1-5)

Sec. 1-1-6. Effect of repeal or expiration of ordinance.

- (a) The repeal of an ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired.
- (b) When an ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

(Code 1958, Sec. 1-6)

Sec. 1-1-7. Amendments to code; effect of new ordinances; amendatory language.

- (a) All ordinances passed subsequent to this code of ordinances which amend, repeal or in any way affect this code may be numbered in accordance with the numbering system of this code and printed for inclusion herein. In the case of repealed chapters, sections and subsections, or any parts thereof, by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of the subsequent ordinances until such time that this code of ordinances and subsequent ordinances numbered or omitted are re-adopted as a new code of ordinances by the city council.
- (b) Amendments to any of the provisions of this code shall be made by amending the provisions by specific reference to the section number of this code in the following language: "That section _____ of the Code of

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Ordinances of the City of High Point, North Carolina, 1982, is hereby amended to read as follows:
_____." The new provisions shall then be set out in full as desired.

- (c) In the event a new section not heretofore existing in the code is to be added, the following language shall be used: "That the Code of Ordinances of the City of High Point, North Carolina, 1980, is hereby amended by adding a section, to be numbered _____, which section reads as follows:" The new section shall then be set out in full as desired.
- (d) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

(Code 1958, Sec. 1-7)

Sec. 1-1-8. Altering code

It shall be unlawful for any person in the city to change or amend by additions or deletions, any part or portion of this ~~C~~code or to insert or delete pages, or portions thereof, or to alter or tamper with the ~~C~~code in any manner whatsoever except by ordinance or resolution or other official act of the city council, which will cause the law of the city to be misrepresented thereby. ~~Any person violating this section shall be punished as provided in section 1-1-4 hereof.~~

(Code 1958, Sec. 1-8)

Commented [TNE10]: PS suggests decriminalizing because it does not appear to be a major issue or serious offense.

Title 3 FINANCIAL ADMINISTRATION

CHAPTER 2 Revenue and Taxation

ARTICLE C Vehicle Lease or Rental Taxes

Sec. 3-2-39. Levy of tax; gross receipts derived from retail short-term or rental of motor vehicles.

- (a) *Tax on gross receipts derived from retail short-term motor vehicle leases or rentals.* The City of High Point hereby imposes and levies a tax on one and one-half (1½) percent of the gross receipts from the short-term lease or rental of vehicles at retail to the general public, as authorized by G.S. 160A-215.1.
- (b) *Administration.* The city through the Guilford County Tax Collector will administer and collect from operators of leasing and rental entities the tax levied hereby. The county tax collector may promulgate additional lawful rules and regulations necessary for the enforcement, implementation and collection of the tax.
- (c) *Payment of taxes and filing of returns.* The taxes levied hereby are due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every entity required to collect the tax shall, on or before the 15th day of each month, prepare and render a return to the county. The county shall design, print, and furnish to all such entities the necessary forms for filing returns and instructions to insure the full collection of the tax. These tax proceeds shall be placed in a segregated account by the collecting entity and are the property of the city. A return filed for this purpose is not a public record as defined by G.S. 132.1 and may not be disclosed except as provided by law.
- (d) *Penalties.* In case of failure or refusal to file a return or pay the tax for a period of 30 days after the time required for filing the return or paying the tax, there shall be an additional tax, as a penalty, of five (5) percent of the tax due, with an additional tax of five (5) percent for each additional month or fraction thereof until the tax is paid. The Guilford County Board of Equalization and Review, for good cause shown, may consider appeals and adjust any penalty or additional tax imposed hereunder.
- (e) ~~*Penalty/Misdemeanor for willful violation.*~~ Any person, firm, corporation or association who willfully attempts in any manner to evade a tax imposed herein or who willfully fails to pay the tax or make and file a return shall ~~be punished as provided in G.S. 160A-215(f), in addition to the penalties provided by law and herein, be guilty of a misdemeanor punishable as provided by law.~~
- (f) *Delegation of powers.* The county tax collector shall exercise the powers authorized to the city by G.S.160A-215.1(f) with the county board of equalization and review exercising the powers of the tax review board.

(Ord. of 6-15-00)

Commented [LAM11]: This is a typo and should be 160A-215.1

Commented [LAM12]: Because criminal penalties for this violation are addressed under state law, PS suggests decriminalizing and re-wording to cite the state statute – G.S.160A-215.1(f) – which states, “penalties and remedies that apply to local sales and use taxes levied under Subchapter VIII of Chapter 105 of the General Statutes apply to a tax levied under this section.” It looks like an individual can be charged with a penalty as serious as a Class 1 misdemeanor for tax evasion. Given this, there is no need to also make this a Class 3 misdemeanor.

Title 5 PUBLIC SAFETY

CHAPTER 1 Law Enforcement¹

ARTICLE C Parking Violations²

Sec. 5-1-41. Civil penalty.

- (a) Except for handicapped vehicle parking and violations of section 10-1-156, for each violation as set forth in section 5-1-3 there shall be a fixed civil penalty charge in the amount of \$50.00. For unlawful parking in a restricted handicapped space, there shall be a fixed civil penalty charge in the amount of \$100.00. For unlawful parking pursuant to section 10-1-156 in an area dividing a street into two (2) or more sections, there shall be a fixed civil penalty charge in the amount of \$50.00. When the owner of a vehicle, or his agent, makes proper payment of a parking ticket within seven (7) days following the date of issuance of the ticket, the obligation thereunto shall be discharged. If such charge has not been paid within the seven-day period as herein set out, the parking violation shall be deemed to be delinquent and subject to the additional penalties provided for in subsection (b). The parking violation shall have stated thereon that payment is due within seven (7) days from date of issue to avoid an additional penalty of \$50.00 and court costs.
- (b) The city tax collector may accept payments in full and final settlement of the claim or claims, right or rights of action which the city may have to enforce such penalties by civil action in the nature of the debt. A failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of debt for the stated penalty plus an additional penalty in the amount of \$50.00, together with the cost of the action to be taxed by the court. However, in the event the offender desires to make payment after the civil action has been commenced but prior to trial disposition, a penalty of \$25.00 in addition to the one imposed for payment within seven (7) days shall apply in such cases. Acceptance of the additional penalty shall be deemed a full and final release of any and all claims or right of action arising out of contended violations.
- (c) A violation listed in section 5-1-42 ~~shall not constitute a misdemeanor or infraction punishable under North Carolina General Statutes, section 14-4, but instead shall be subject to the civil penalties and remedies in accordance with Section 1-1-4 of the Code and G.S. fixed by subsection (a) of this section and the civil remedies provided by North Carolina General Statutes, section 160A-175.~~ Any properly designated city official is authorized to take legal action in the nature of a civil suit for the collection of a debt when the civil penalty, including the delinquent civil penalty, has not been paid.

Commented [LAM13]: With the new legislation (S.L. 2021-138), each section can't be criminalized unless the criminalization is explicitly stated. Since we are not adding the criminalization language in here, this language is no longer necessary.

¹State law reference(s)—Municipal law enforcement, G.S. 160A-281 et seq.

²Editor's note(s)—Ord. No. 91-72, adopted Nov. 21, 1991, and Ord. No. 92-44, adopted May 7, 1992, amended the Code by deleting provisions designated as Art. C, §§ 5-1-41—5-1-45, of Title 5, Ch. 1, which pertained to motor vehicle registration and derived from Code 1958, § 19-85. Ord. No. 92-46, § 1, adopted May 7, 1992, amended Ch. 1 of Title 5 by adding a new Art. C set out below.

State law reference(s)—Municipal levy of license or privilege tax on resident motor vehicles, G.S. 20-97.

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- (d) The civil penalties imposed by this section and the proceeds therefrom, as collected by payment, civil action or otherwise, shall belong to the city and shall be paid into the general fund of the city under such conditions as prescribed by the annual budget.
 - (e) Each hour a vehicle is parked in the same space following the issuance of a parking ticket shall constitute a separate violation subject to the issuance of a new parking ticket and additional civil penalty to be applied to such vehicle.
 - (f) The moving of a parked vehicle from one (1) restricted space to another restricted space in the same block is deemed to be one (1) continuous parking period for the purpose of determining overtime parking violations.
 - (g) To remove or erase chalk mark from tire or tires shall be deemed a violation and subject to civil penalty as provided by law.

(Ord. No. 92-46, § 1, 5-7-92; Ord. No. 00-81, § 1, 8-17-00; Ord. No. 7225/16-45 , 7-18-16)

Sec. 5-1-42. Issuance of parking tickets.

- (a) When one of the following violations has occurred, the law enforcement officer or other city official designated by the chief of police detecting the apparent violation is authorized to record the state and registration number of the vehicle involved, and to place a parking ticket in or on the vehicle involved, or to serve the ticket if the owner or operator is present:
 - (1) Parking over the specified time limit;
 - (2) Parking during restricted hours where official parking control devices are posted;
 - (3) Parking within 25 feet of an intersection (North Carolina General Statutes, section 20-162).
 - (4) Parking within 15 feet of a fire hydrant;
 - (5) Protrusion beyond designated parking space;
 - (6) Parking within five (5) feet of entrance to alley, driveway or private road;
 - (7) Parking so as to obstruct sidewalk or crosswalk;
 - (8) Parking within 50 feet of bridge, railroad underpass or overhead bridge;
 - (9) Parking within 50 feet of railroad grade crossing;
 - (10) Parking between edge of roadway and property line;
 - (11) Parking of vehicles on a public street in excess of one (1) ton rated capacity in violation of section 10-1-158.
 - (12) Prohibited parking in city-operated lots;
 - (13) Parking left side of vehicle to curb on two-way street;
 - (14) Double parking;
 - (15) Protrusion into street more than eight (8) feet;
 - (16) Parking in a controlled residential parking area over the amount of time without a valid residential parking permit;
 - (17) Parking upon a median strip;
 - (18) Parking in the following restricted zones:
 - a. Commercial loading zones;

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- b. Passenger loading zones;
 - c. Bus stop;
 - d. Taxicab stand;
 - e. Handicapped vehicle parking;

(19) Parking in a prohibited zone;

- (b) The foregoing violations are to be considered a part of, but not limited to, title 5, entitled "Public Safety," chapter 1, entitled "Law Enforcement," and title 10, entitled "Transportation and Traffic," chapter 1, article D, entitled "Powers and Duties of the Police Department," and may be enforced under either of these sections by authority of law enforcement officers and other city officials designated by the chief of police.
- (c) Only law enforcement officers and other city officials designated by the chief of police may issue and serve parking tickets. Parking tickets shall be served by placing them on motor vehicles.

(Ord. No. 92-46, § 1, 5-7-92; Ord. No. 6334/06-21, § 1, 3-23-06)

Secs. 5-1-43—5-1-45. Reserved.

CHAPTER 2 Fire Prevention and Protection³

ARTICLE C Fire Hazards⁴

Sec. 5-2-41. Burning trash within fire limits prohibited.

No person shall burn, or cause to be burned, any trash, refuse, shavings, paper, leaves, litter or other material of any kind outside any house, or in any street, sidewalk, alley, lot or yard within the fire limits.

(Code 1958, Sec. 8-8)

Sec. 5-2-42. Burning trash outside fire limits.

Grass, weeds, trash or rubbish shall not be burned on any private lot outside the fire limits except within a safely constructed enclosure made of wire mesh or in a similar device, except upon written permission obtained from the chief of the fire department. The permit shall be granted on the basis that conditions and procedures prescribed in the permit will be followed, and shall comply with current requirements and regulations of the Environmental Protection Agency (EPA).

Sec. 5-2-43. Bonfires; permit required.

No person shall kindle or maintain any bonfire, or shall knowingly furnish the materials for any such fire, or authorize any such fire to be kindled or maintained on or in any street, avenue, road, lane or public ground unless

³State law reference(s)—Municipal fire protection, G.S. 160A-291 et seq.

⁴Cross reference(s)—Smoking in theaters, Sec. 12-1-6.

a written permit so to do shall have been first secured from the chief of the fire department. The permit shall be granted on the basis that conditions and procedures prescribed in the permit will be followed, and shall comply with current requirements and regulations of the Environmental Protection Agency (EPA).

Sec. 5-2-44. Fire extinguishers; required in establishments handling flammable materials.

- (a) Hand or other portable fire extinguishers shall be installed in every store, factory, garage or other building where readily inflammable material is stored, handled, kept or sold.
- (b) Automatic fire extinguishing equipment shall be installed in the exhaust system and cooking equipment used therewith in commercial, industrial, institutional and similar cooking applications. This shall not apply to installations for normal residential family use. Plans and specifications shall be submitted to the fire marshal, prior to installation, for approval and shall include a final inspection after installation and before placed in operation.

(Code 1958, Sec. 8-19)

Sec. 5-2-45. Same; approval by recognized testing association and fire department prerequisite to sale.

- (a) It shall be unlawful for any person, firm or corporation to sell, offer for sale, install or cause to be installed any type fire extinguisher or other similar appliance, equipment, material or agent for the extinguishment of fire within the city, unless such extinguisher, appliance, equipment, material or agent has been approved and bears the label of approval of the Underwriters' Laboratories (UL), or any other recognized testing association approved for label service.
- (b) The chief of the fire department, or his appointed authority, shall have the authority to reject or approve the sale and use of any fire extinguisher or other similar appliances, equipment, material or agent that would create or cause to be created a life or health hazard or would in any way be detrimental to the well being of the citizens of the city.

(Code 1958, Sec. 8-19.1)

Sec. 5-2-46. Tampering with fire alarm system.

It shall be unlawful for any person, other than a person as may be designated by the chief of the fire department, to remove, handle, or in any way tamper with, rearrange or readjust any of the fire alarm wires or other fixtures of the fire alarm system.

(Code 1958, Sec. 8-22)

Sec. 5-2-47. Telephone alarm systems prohibited.

It shall be unlawful for any person, firm or corporation to install, sell, lease or use, or cause or allow to be installed, sold, leased, or used, within the corporate limits of the city, any fire or police telephone dial alarm device or system, which for the purposes of this section is defined as being or consisting of any mechanical, electrical or radio electronic device or system so made or designed as to automatically actuate or call the city fire or police departments' telephone or radio circuit and use a pre-taped or pre-recorded or programmed verbal message or signal, which operates through overhead or underground wires or by radio frequencies and which is set or programmed to directly dial, actuate, call or in any other manner make direct contact with any telephone line or radio circuit of the fire or police department. ~~Any person violating any provision of this section shall be guilty of a~~

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~~misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-1-4.~~ Nothing herein contained shall be construed to prohibit the installation, sale, leasing or use of any alarm device so long as such device is not designed or programmed to dial, actuate, call or in any other manner directly contact by telephone or radio circuit the fire or police department on any telephone line or radio circuit assigned to those departments. Provided, that the person installing such alarm system shall notify the police and/or fire departments of each installation.

(Code 1958, Sec. 15-39)

Sec. 5-2-48. False fire alarms.

It shall be unlawful for any person to turn in a false fire alarm, damage, injure or deface any fire alarm box, signal, switch, plug, wire, or other apparatus connected with the fire alarm system. Authority is hereby given for paying a reward of \$25 for information leading to the arrest and conviction of anyone violating the provisions of this section.

(Code 1958, Sec. 8-23)

Sec. 5-2-49. Fire hydrants; use of on private premises.

It shall be unlawful to use water from fire hydrants installed on private property for any purpose other than for fire protection.

(Code 1958, Sec. 8-24)

Sec. 5-2-50. Same; use of public hydrants.

It shall be unlawful for any person to release water from any public fire hydrant, except city officials in the discharge of their duty fighting fire or flushing the hydrant unless approval is first obtained from fire chief and director of utilities.

(Code 1958, Sec. 8-25)

Sec. 5-2-51. Delivery of flammable and combustible liquids.

- (a) Delivery of class I and II flammable liquids by tank vehicles to any storage tanks shall be made by means of tight connections between the hose and the fillpipe.
- (b) Owners or operators of all tank vehicles delivering class I and II flammable liquids to any storage tank shall file with the fire department, upon forms furnished by the fire department, an annual inspection report to determine whether the regulatory standard #385 of the National Fire Protection Association (N.F.P.A.), 1974 Edition, and the fire prevention code have been complied with.
- (c) All tank vehicles delivering class I and II flammable liquids to any storage tank shall be marked with date of the last annual inspection or shall at all times carry a copy of the annual inspection report or have such inspection report readily available at their home office.

(Ord. of 11-15-79)

Commented [TNE14]: This section was previously criminalized in the Code and is allowed to be criminalized under S.L. 2021-138. However, PS suggests decriminalizing because a criminal penalty does not appear to be necessary here and decriminalizing this section would ensure the penalties go to the City.

CHAPTER 3 Emergency Management

Sec. 5-3-1. Short title.

This chapter shall be known and may be cited and referred to as the "Emergency Management Ordinance of the City of High Point."

(Code 1958, Sec. 7-1, as amended by Ord. of 11-15-79)

Sec. 5-3-2. Intent.

- (a) It is the intent of this chapter to establish a city office of emergency management ("COEM") that will ensure the complete and efficient utilization of all of the community's resources to mitigate against, plan/prepare for, respond to and recover from natural or man-made emergencies or disasters.
- (b) The COEM will be the coordinating agency for all activity in connection with the community's emergency preparedness. The coordinator of the COEM, as a staff official, will advise and provide recommendations to the city manager and the city council as to actions to be taken in responding to and recovering from the disaster situation.
- (c) This chapter will not relieve any government department of its responsibilities or authority nor will it adversely affect the work of any volunteer agency organized for relief in emergencies.

(Code 1958, Sec. 7-2, as amended by Ord. of 11-15-79; Ord. No. 6950/12-66, 10-1-12)

Sec. 5-3-3. Authority and references.

This chapter is enacted under the authority of the following:

- (1) G.S. Ch. 166A (as amended).
- (2) G.S. Art. 36A Ch. 14 (as amended).
- (3) Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288 (as amended) 42 U.S.C. 5121-5206, Title 44 CFR Emergency Management Assistance.

(Code 1958, Sec. 7-3; Ord. No. 6950/12-66, 10-1-12)

Sec. 5-3-4. Policy and purpose.

Because of the existing and ever present possibility of the occurrence of disasters of significant size and large scale destructiveness and in order to ensure that preparations of this community will be adequate to deal with such emergencies/disasters, and to provide for the general welfare, health and safety, and to preserve the lives and property of the people of this community, it is hereby found and declared to be necessary:

- (1) To establish a city office of emergency management;
- (2) To recognize the responsibilities of local government and the emergency powers conferred upon the local governing body by the North Carolina General Statutes;
- (3) To provide for the exchange of mutual aid among neighboring cities and counties; and
- (4) To recognize the importance of coordinating to the maximum extent all emergency management functions of this community with comparable functions of the county, state and federal governments, including their various departments and agencies, and of other localities as well as private agencies of

every type, to the end that the most effective preparation and use may be made of all available resources for dealing with any disasters that may occur.

(Code 1958, Sec. 7-4, as amended by Ord. of 11-15-79; Ord. No. 6950/12-66, 10-1-12)

Sec. 5-3-5. State of emergency declaration; curfew authorized

- (a) 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.
- (b) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the City of High Point, or threatening damage to or destruction of property, the mayor, or mayor pro tempore in the mayor's absence, is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency, and, in order to more effectively protect the lives and property of people within the city, to place in effect any or all of the restrictions authorized herein and to take any action deemed necessary in accordance with the authorities cited above in section 5-3-3, including the authority to define and impose a curfew.
- (c) The mayor/mayor pro tempore is hereby authorized and empowered to limit by declaration any part of such restrictions to any area specifically designated or described within the corporate limits of the city and to specific hours of the day or night; and to exempt from all or any part of such restrictions law enforcement officers, firemen and other public employees; doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the city.
- (d) The mayor/mayor pro tempore shall proclaim the end of such state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the city council.
- (e) During the existence of a proclaimed state of emergency, the mayor/mayor pro tempore may impose by declaration any or all of the following restrictions:
 - (1) Prohibit or regulate the possession, transportation, sale, purchase, storage and use of gasoline and dangerous weapons and substances, and gasoline except lawfully possessed firearms (handguns, rifles, and shotguns) and ammunition;
 - (2) Prohibit or regulate the buying or selling of beer, wine, or intoxicating beverages of any kind, and their possession or consumption off one's own premises;
 - (3) Prohibit or regulate any demonstration, parade march, vigil, or participation therein from taking place on any of the public ways or upon any public property;
 - (4) Prohibit or regulate the sale of gasoline, kerosene, naphtha, or any other explosive or inflammable fluids or substances;
 - (5) Prohibit or regulate travel upon any public street, alley, or roadway or upon any other public property, except by those in search of medical assistance, food, or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof;
 - (6) Prohibit or regulate the participation in or carrying on of any business activity, and prohibit or regulate the keeping open of places of business, places of entertainment, and any other places of public assembly.

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- (f) Any declaration may be extended, altered, or repealed in any particular manner during the continued or threatened existence of a state of emergency by the issuance of a subsequent declaration.
- (g) During the existence of a declared state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any declaration authorized by this chapter.
- (h) The sections, paragraphs, sentences, clauses, words and phrases of this chapter are severable, and, if any word, phrase, section, paragraph, sentence, or clause shall be declared unconstitutional or invalid by any valid judgment or decree or any court of competent jurisdiction, the constitutionality or invalidity shall not affect any of the remaining phrases, words, clauses, sentences, paragraphs, or sections of this chapter.
- (i) The violation ~~of any provision of this chapter, or of any provision of any restriction imposed by any declaration authorized by this section~~chapter, shall ~~be punishable as a misdemeanor—constitute a misdemeanor, punishable upon conviction by a fine not exceeding \$50.00 or imprisonment not exceeding 30 days, as provided by G.S. 14-4 and shall also be punishable as a Class 2 misdemeanor as set forth in G.S. Ch. 166A-19.31.~~

(Ord. No. 6950/12-66, 10-1-12)

Editor's note(s)—Ord. No. 6950/12-66, adopted Oct. 1, 2012, renumbered the former § 5-3-5 as § 5-3-6 and enacted a new § 5-3-5 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

Commented [LAM15]: Because criminal penalties for this violation are addressed under state law, PS suggests decriminalizing and re-wording to cite the state statute- G.S. 166A-19.31(h).

Sec. 5-3-6. Organization.

There is hereby established a city office of emergency management (COEM) with a coordinator as the office head. The coordinator will be responsible to and supervised by the chief of the High Point Fire Department. The coordinator, as head of the office, shall be responsible and accountable for the emergency planning, administration, budgeting, organization and operation of emergency management functions of the community before, during and after disasters. The coordinator shall act as the local government's coordinator with the emergency management representatives of other counties and/or cities as well as those of state and federal governments.

(Code 1982, Sec. 5-3-5, as amended by Ord. of 2-17-83; Ord. No. 6950/12-66, 10-1-12)

Note(s)—See the editor's note to § 5-3-5.

Title 6 PUBLIC SERVICES⁵

CHAPTER 1 Streets and Sidewalks⁶

ARTICLE A General Provisions

Sec. 6-1-1. Display of merchandise on streets and sidewalks.

No produce, merchandise, cooked provisions, poultry, fruits, vegetables or other commodity shall be kept exposed for sale in or upon any sidewalk, or the space in front of buildings used as a sidewalk, alley, gutter, or street of the city, nor shall any stand be placed thereon for such purpose, nor shall any such articles be exposed as samples on any of the alleys, sidewalks, or the space in front of buildings used as a sidewalk or street. This section shall not apply during the Downtown Merchant's Appreciation Day, which will be held semi-annually, subject to a permit issued by the city manager.

(Code 1958, § 18-4; Ord. No. 79-45, 6-21-79)

Cross reference(s)—Produce peddlers, title 11, ch. 5, art. C.

Sec. 6-1-2. Distribution of handbills and commercial activity on streets and sidewalks.

- (a) As used herein, the term "handbill" means any printed or written matter, circular, leaflet, pamphlet, or paper; or any object of any description containing words or symbols thereon:
 - (1) Which advertises for sale any merchandise, product, commodity, or thing; or
 - (2) Which directs attention to any business, showroom, commerce service, commercial activity of any description; or meeting; performance, exhibition or event.
- (b) It is unlawful to distribute, give away, hand out, deposit, or throw any handbill, or to engage in any commercial activity, within any part of the entire right-of-way of Commerce Street, including sidewalks, between Hamilton Street and Wrenn Street. The right-of-way of Commerce Street shall include that portion which overlaps the right-of-way of Wrenn Street or Hamilton Street.
- (c) The prohibition of this section is effective during, and seven (7) days prior to, the dates of the semi-annual International Home Furnishings Market as published by the International Home Furnishings Market Authority.

(Code 1958, § 18-5; Ord. No. 99-73, § 1, 9-13-99; Ord. No. 02-73, 8-15-02)

⁵Editor's note(s)—Ord. No. 6586/08-71, adopted Oct. 20, 2008, changed the title of title 6 from "public works" to "public services."

⁶State law reference(s)—Establishment and control of streets, sidewalks and public ways, G.S. 160A-296.

Sec. 6-1-3. Obstruction of streets and sidewalks with boxes, crates, bricks, etc.; breaking glass.

No brick, stone, wood, or other substance obstructing the street shall be suffered to lie in the streets. No person shall place in any street, alley, nor upon any sidewalk, any boxes, casks, crates, barrels, or other obstructions; provided, however, building materials, earth or any other obstruction of like character, may, by permission of the city manager in writing, be allowed, under such restrictions as he may impose. It shall also be unlawful for any person to break or cause to be broken any glass on the streets.

(Code 1958, § 18-6)

Cross reference(s)—Use of streets and sidewalks during construction and demolition, Art. C of this chapter.

Sec. 6-1-4. Impeding traffic on sidewalks.

It shall be unlawful to impede or obstruct free pedestrian movement upon any sidewalk by any means or activity.

(Code 1958, § 18-8; Ord. No. 02-73, 8-15-02)

Sec. 6-1-5. Location of awnings over streets and sidewalks.

All awnings shall have a clear space of seven (7) feet from the lower edge of the awning to the sidewalk.

Sec. 6-1-6. Hedges within six inches of sidewalk declared nuisance; visibility at intersections.

- (a) All trees, hedges, bushes, shrubbery, vines, etc., which encroach on a line drawn perpendicular to and six (6) inches from any sidewalk, or sidewalk pavement, or which obscure visibility at any intersection, are dangerous to clothing, inconvenient to pedestrians, and are a hazard to traffic and are hereby declared to be a nuisance. All such trees, hedges, bushes, shrubbery, vines, etc., shall be kept trimmed back or supported so as not to encroach in a perpendicular position nearer than six (6) inches to any sidewalk as herein specified.
- (b) On corner lots no tree, hedge, bush, shrubbery, vine, fence, wall, sign or other similar object which constitutes a hazard to visibility for motorists using either street, as determined by the director of transportation after an engineering investigation, shall be planted or allowed to remain in the area inside a vision triangle bounded by the street curb lines or edge of pavement and a vision clearance setback line. The setback line connects points on each right-of-way line which are located a minimum distance of 25 feet back from the intersection of the two (2) right-of-way lines.
- (c) Any person ~~violating any of the provisions of this section shall be subject to punishment as provided in section 1-1-4, and in addition, any person~~ who, having been served an order to remove any violation shall fail to comply with such order within 10 days after such service, or shall continue to violate any provisions of this section named in such order, shall ~~also be subject to a civil penalty of \$50.00. Each day that a violation continues shall create a new offense in accordance with Section 1-1-4 of the Code and G.S. 160A-175.~~

(Code 1958, § 18-11)

Commented [TNE16]: Decriminalized because this is an ordinance "regulating trees" which is not allowed to be criminalized under new legislation (S.L. 2021-138).

Commented [TNE17]: Made this revision to correspond to the new version of Sect. 1-1-4 of the Code.

Sec. 6-1-7. Cleaning sidewalks; snow, sleet or ice.

All persons owning or occupying property within the city limits, in front of which paved sidewalks have been laid, are required to clean and remove from sidewalks all snow, sleet, or ice within 12 hours after the same has fallen thereon.

Sec. 6-1-8. Encroaching on streets and sidewalks.

- (a) No person shall encroach upon the public right-of-way, street, or sidewalk of the city by erecting any window, stoop, fence, chimney, portable or permanent basketball goals and other sports equipment, portion of a building, any downspout, steam pipe, air conditioning unit, wall, mailbox, or any other obstruction over the sidewalks of the street lower than nine (9) feet above the sidewalk, except that this section shall not apply to awnings as provided for under section 6-1-5 and mailboxes as listed below. Failure by the property owner to remove such obstructions within 14 days' notice by the city may result in a penalty of \$50.00 per day and/or removal by the city at the property owner's expense.
- (b) Mailboxes with non-rigid supports, such as a single four (4) inch by four (4) inch wooden post or small diameter metal post with a strength no greater than a two-inch diameter standard strength steel pipe and embedded no more than 24 inches into the ground, are permitted in the right-of-way. Other types of mailboxes, such as those using brick, block, stone or any other type of rigid material are installed and exist at the risk of the owner. The city or any other person authorized to work in the right-of-way may remove any such mailbox without notice or compensation to the owner. In addition, the director of transportation is authorized to require the removal of any mailbox, upon 14 days notice to the owner, if the director of transportation determines that the mailbox creates a hazard to pedestrian or vehicular traffic. Failure to remove a mailbox after being so notified shall subject the owner to a civil penalty of \$50.00 for each day thereafter until the mailbox is removed.
- (c) During the dates of the semi-annual High Point Market, as established by the High Point Market Authority, and for three (3) days prior to and three (3) days following, no furniture, accessories, merchandise, or samples shall be displayed or exposed for sale in or upon any sidewalk or public right-of-way. Items of decor, including without limitation, planters, potted plants, outdoor seating, decorative lighting, flowers, greenery, ("decorative items") may be allowed on the sidewalk and public right-of-way in front of buildings used as market showrooms subject to the following conditions:
 - (1) A minimum of ten (10) feet of sidewalk or public right-of-way shall be open and clear at all times from the back of curb to provide unobstructed pedestrian access.
 - (2) In cases where the sidewalk is ten (10) feet or less, from the back of curb to the building, no items may be placed on the sidewalk, as it would obstruct pedestrian access.
 - (3) Attention shall to be given to safety issues related to the placement of decorative items to ensure that said items do not impede pedestrian traffic, create trip or fall hazards, or impede or obstruct the flow of vehicular traffic.
 - (4) The decorative items shall not impede ingress and egress of any building, fire exit, driveway, or loading dock. Decorative items shall not, at any time or for any purpose, be placed in any portion of a public street, parking space, or loading zone.
 - (5) Violations of subsection (c) or failure of a property owner to immediately remove decorative items upon notice from the city may result in the city removing said items. Any and all costs associated with removal by the city shall be borne by the property owner. The city accepts no responsibility for items the city removes and shall not guarantee the return or the care and condition of any decorative items removed.

(Code 1958, § 18-13; Ord. No. 91-14, § 1, 2-7-91; Ord. No. 02-15, § 1, 2-21-02; Ord. No. 6506/07-101, § 1, 11-19-07; Ord. No. 7451/18-80, 9-17-18)

Sec. 6-1-9. Removal of sand, dirt, sod, etc., from unpaved streets prohibited.

No person shall remove any sand, dirt, sod or clay from any of the unpaved streets.

(Code 1958, § 18-18)

Sec. 6-1-10. Hauling refuse; tracking mud.

- (a) It shall be unlawful for any person to haul or cause to be hauled over the streets of the city any dirt, concrete, shingles, laths, trash, or other materials in a truck, trailer, or other vehicle, unless the truck, trailer, or other vehicle is constructed to prevent, and does prevent, the spilling of dirt, concrete, shingles, laths, trash, or other materials upon the streets.
- (b) It shall be unlawful for any person to permit a truck, trailer, or other vehicle under his control to track mud, in appreciable quantity, on the streets or sidewalks of the city from private property.

(Code 1958, § 30)

Sec. 6-1-11. Obstructing flow of water or drainage in street prohibited.

It shall be unlawful to stop up, dam or in any way impede the flow of water or drainage in the street gutter or drainage ditch beside a street.

(Code 1958, § 18-25)

Sec. 6-1-12. Construction of sidewalks.

- (a) It shall be unlawful for any owner or contractor to lay or begin to lay sidewalks anywhere within the corporate limits before first having obtained a permit from the department of transportation.
- (b) All work shall be performed in strict accordance with standard specifications, grades and details as required by the city and under the supervision of the city engineer.

Cross reference(s)—Procedure for installation of public improvements, city charter, art. VIII.

Sec. 6-1-13. Signs; erection or suspension across streets, etc., prohibited.

It shall be unlawful for any person to erect or suspend any sign or banner across any public street, avenue, boulevard or alley of the city.

(Code 1958, § 18-17)

Cross reference(s)—Zoning requirements for signs, § 9-3-111 et seq.

Sec. 6-1-14. Poles and guy wires; painting; removal of wires from trees; boxing.

All electric railway, light, power, telegraph and telephone companies whose poles are erected along any of the streets, shall be required to paint such poles in a manner satisfactory to the city council and all guy wires now

connected with or attached to trees shall be removed, and all guy wires or braces entering the ground shall be properly boxed in the customary manner.

(Code 1958, § 15-26)

Sec. 6-1-15. Oiling of streets.

Oil shall not be used for road oiling, dust control, weed abatement, or other similar purposes that have the potential to release oil into the environment.

Any person applying an approved type of dust control shall obtain from the department of public works a permit at least 48 hours prior to the application of said dust control.

(Ord. No. 91-35, § 1, 5-2-91)

Sec. 6-1-16. Sidewalk cafés.

- (a) The transportation department is authorized to issue permits for the operation of sidewalk cafés in accordance with the following standards and regulations. No person shall operate a sidewalk café without such a permit. The transportation department is authorized to revoke such permits for noncompliance with the standards and regulations.
- (b) Issuance of permit. No permit for the operation of a sidewalk café may be issued unless the application is complete and unless the following requirements are met:
 - (1) The sidewalk café must be associated with an operating restaurant. The sidewalk café must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business. Sidewalk cafés may operate at any time between the hours of 7:00 a.m. and 1:00 a.m.
 - (2) The operation of the sidewalk café must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk café may not be more than 50 percent of the interior seating capacity of the associated restaurant.
 - (3) The placement of tables, chairs, and other furnishings as shown in the drawing submitted with the site plan must be done in such manner that at least five (5) feet of unobstructed space (as measured from the nearest fixed obstruction(s) remains on the sidewalk or pedestrian way for the passage of pedestrians. No fire exits or lanes may be blocked and such must remain clear at all times. All applicable regulations pursuant to the Americans with Disabilities Act must be met.
 - (4) The restaurant seeking to operate the sidewalk café must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk café. The placement of tables, chairs, and other furnishings may not extend beyond the sidewalk or pedestrian way frontage of the associated restaurant. With the written permission of the adjoining property owners and tenants the sidewalk café may extend onto the abutting property but may not extend beyond alleyways or vehicular entrances.
 - (5) The area designated for the sidewalk café shall be physically separated from the remaining sidewalk by visible barricades with a height of at least 36 inches and no more than 42 inches, with no trip hazards including but not limited to the base of the barricade. The barricades must be constructed of materials of a finished quality, including but not limited to wrought iron, planters, picket fences or velvet ropes.
 - (6) The barricades, tables, chairs and other furnishings used in the sidewalk café shall not be anchored and shall be of a type of street furniture that is easily movable.

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- (7) Except as elsewhere permitted by the Code, the operation or furnishing of the sidewalk café shall involve no permanent alteration to or encroachment upon any street, sidewalk or pedestrian way or to the exterior of the associated restaurant.
 - (8) The operation of the sidewalk café shall at all times be in accordance with the requirements of this subsection (b). At the direction of the city manager or his designee, any improperly placed or improperly sized furniture or barricade shall be moved.
 - (9) Each sidewalk café shall provide adequate trash receptacles for its patrons within the perimeters of the barricades. At the end of each business day and during operating hours the operator shall remove all trash and debris of any sort from the area within the barricade and between it and the curb, and in addition shall remove the sidewalk alongside and abutting properties any trash or debris originating as a result of the operation of the sidewalk café.

(Ord. No. 6757/10-105, § 1, 8-16-10)

Editor's note(s)—Ord. No. 6757/10-105, § 2, provides that this § 6-1-16 is effective as to permitted sidewalk cafés notwithstanding §§ 6-1-1, 6-1-3, 6-1-4, and 6-1-8 of this Code.

Secs. 6-1-17—6-1-30. Reserved.

CHAPTER 2 Solid Waste Collection and Disposal⁷

Commented [LAM18]: Contained a general provision criminalizing entire chapter. Worked with Robby Stone to determine what the City wants to criminalize.

Sec. 6-2-1. Definitions.

- (a) For the purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
- (b) The following definitions shall apply in the interpretation and the enforcement of this chapter:
 - (1) *Ashes* means refuse from the burning of wood, coal, paper, and/or other combustible material which has been wetted and cooled to the touch prior to collection.
 - (2) *Blood and body fluids* means liquid blood, serum, plasma, other blood products, emulsified human tissue, spinal fluids, and pleural and peritoneal fluids. Dialysates are not blood or body fluids under this definition.
 - (3) *Bulk containers* mean a metal container made of watertight construction with sliding doors opening on two (2) sides and hinged top, and constructed so that it can be emptied mechanically by specially equipped trucks. Containers shall be kept covered at all times. Hereinafter upon effective date of this section, all new bulk containers shall meet these specifications.

⁷Editor's note(s)—This chapter is derived from an ordinance of the city council adopted June 18, 1981, which amended chapter 10 of the 1958 Code so as to rewrite the provisions thereof. Ordinance No. 91-57, adopted July 18, 1991, amended ch. 2 to read as herein set out. Formerly, ch. 2, §§6-2-1—6-2-18, pertained to garbage and refuse collection and disposal and derived from the 1982 Code; § 1 of Ord. No. 83-36, adopted June 2, 1983; and § 1 of Ord. No. 84-25, adopted April 5, 1984.

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- (4) *Bulky item* means the occasional items that are inappropriate or too large for compacting in the garbage truck such as white goods, stoves, refrigerators, water heaters, gas grills, wheelbarrows, bicycles, lawn mowers, sofas, box springs, carpet/padding, and other furniture and appliances. Bulky item collection is not intended to remove the entire contents of a property or house. No tires will be accepted.
 - (5) *Business* means a corporation, industry, company, retail, landlord, and/or other entity engaged in a for-profit endeavor.
 - (6) *Central Business District* means that section of the city bounded by Russell Street on the south, Elm Street on the west to Church, thence north along Main Street to Montlieu on the north and Hamilton Street on the east.
 - (7) *City* means the City of High Point.
 - (8) *Collection* means the act of removing solid waste from a point of generation to an approved disposal site. Collection shall be at the curb for garbage, yard waste, recyclables and bulky items.
 - (9) *Commercial establishment* means any retail, wholesale, institutional, religious, hotels, governmental or other nonresidential establishment at which solid waste may be generated.
 - (10) *Commercial waste* means solid waste generated from institutions and commercial concerns such as hotels, stores, etc.
 - (11) *Construction or demolition when used in connection with "waste" or "debris"* means solid waste resulting solely from construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures, but does not include inert debris, land-clearing debris, or yard debris.
 - (12) *Detachable container* means a unit varying in capacity between 20 cubic yards and 40 cubic yards which is used for collecting, storing, and transporting building materials, commercial waste, industrial waste, hazardous refuse, refuse, or yard trash. The unit may or may not use an auxiliary stationary packing mechanism for compaction of materials into the container and may be of the open or enclosed variety. The distinguishing feature of the detachable container is that it is picked up by a specially equipped truck and becomes an integral part of the truck for transporting the waste materials to the disposal site.
 - (13) *Flow control area* is a designated geographic area within which the collection, transportation, storage, and disposal of all solid waste generated within said area shall be accomplished in accordance with a solid waste management plan.
 - (14) *Garbage* means all putrescible waste, that is solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal and carcasses, including animal offal and carcasses and recognizable industrial byproducts, but excluding sewage and human waste. Offal, carcasses, and pet feces shall be securely bagged for collection.
 - (15) *Generating facility* means any facility where medical waste first becomes a waste, including but not limited to any medical or dental facility, funeral home, laboratory, veterinary hospital, and blood bank.
 - (16) *Government or Governmental* means any government, state, county or local government which operates separate and apart from the City of High Point.
 - (17) *Group housing* means apartments, condominiums, group developments.
 - (18) *Hazardous waste* means a solid waste, or combinations of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

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- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- (19) *Inert debris* means solid waste which consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.
- (20) *Land clearing debris* means solid waste (stumps, tree trunks, roots, dirt, large limbs, etc.) which is generated solely from land clearing activities.
- (21) *Lead acid batteries* means any battery containing lead, acid, or both.
- (22) *Litter* includes, but is not limited to, garbage refuse, waste material or any other discarded, used, or unconsumed substance which is not handled as specified herein.
- (23) *Loose leaves* means tree/plant foliage that has fallen from trees/plants and has been placed along the street in rows or piles, not in bags, for collection.
- (24) *Loose tree limbs* means large, heavy yard and/or tree trimmings or cuttings resulting from heavy pruning, tree or shrub removal, or plant breakage. These limbs have not been trimmed or cut to proper size, length, or bundled for collection.
- (25) *Material recovery facility* is a state permitted solid waste management facility that receives recyclables within the designated flow control area. The facility also processes removed recyclables for sale to recycling markets.
- (26) *Medical waste* means any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste identified or listed pursuant to this article, radioactive waste, household waste as defined in 40 Code of Federal Regulations, section 261.4(b)(1) in effect on July 1, 1989, or those substances excluded from the definition of solid waste in this section.
- (27) *Microbiological waste* means cultures and stocks of infectious agents, including but not limited to specimens from medical, pathological, pharmaceutical, research, commercial, and industrial laboratories.
- (28) *Multi-family residential unit* means any apartment, group of apartments or condominiums used for residential dwelling places.
- (29) *Nonresidential unit* means any retail, manufacturing, wholesale, institutional, religious, nonprofit organization, governmental or other unit not primarily used for residential purposes.
- (30) *Oil* means any oil new or used which has been refined from crude oil or synthetic oil and, as a result of use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and is economically recyclable.
- (31) *Pathological waste* means human tissue, organs and body parts, and the carcasses and body parts of all animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologicals or in vivo testing of pharmaceuticals, or that died with a known or suspected disease transmissible to humans.
- (32) *Person* means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

- (33) *Physical disability* means a medical condition, verified by a registered physician, that makes an individual either physically unable to bring a rollout cart to the curbside for collection and/or that makes undertaking such an act clearly and seriously threatening to that person's health.
- (34) *Recycling* means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.
- (35) *Recyclable material* means those materials which are capable of being recycled can be marketed at a value greater than the costs associated with processing and shipping that material to a buyer, and which would otherwise be processed or disposed of as solid waste. Examples of recyclable materials are as follows: newspaper and accompanying inserts, magazines, chip board, corrugated cardboard, mixed and office paper (excluding sanitary products), telephone books, plastic bottles (#1 PET), plastic containers (#2 HDPE), steel cans, aluminum cans, glass containers, and yard waste (leaves, brush, grass clippings) and other materials determined to be recyclable by the public services director.
- (36) *Rental ~~roll-off trash trailer~~ program* means city service to provide a large ~~roll-off container trailer~~ rental for residential property owners, customers, and tenants for a larger quantity of bulky items to be disposed. Service is for a fee .
- (37) *Refuse* means all non-putrescible waste.
- (38) *Regulated medical waste* means blood and body fluids in individual containers in volumes greater than 20 milliliters, microbiological waste, and pathological waste that have not been treated.
- (39) *Rollout cart* means a wheeled solid waste, yard waste, and/or recyclable receptacle compatible with city garbage collection equipment, and approved by the department of public services.
- (40) *Scrap tire* means a tire that is no longer suitable for its original, intended purpose because of wear, damage, or defect.
- (41) *Sharps* means and includes needles, syringes with attached needles, capillary tubes, slides and cover slips, and scalpel blades.
- (42) *Sharps container* means a container manufactured and approved for the disposal of sharps. The container must be rigid, leak-proof when in the upright position, puncture-resistant, and shall be labeled with a water resistant universal biohazard symbol.
- (43) *Single-family attached housing* is a project of one (1) or more residential structures, each containing two (2) or more attached single-family residences.
- (44) *Single-family dwelling* means any dwelling place occupied by one (1) family.
- (45) *Sludge* means any solid, semisolid, or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, waste supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects.
- (46) *Small dead animals* means cats, dogs, small household pets, and other small animals of similar size weighing less than 100 pounds. Definition does not include livestock (cows, pigs, goats, horse).
- (47) *Solid waste* means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment, and disposal systems; and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, and agricultural operations, and from community activities. The term does not include:

Commented [TNE19]: Revisions made based on conversations with Robby Stone.

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- a. Fecal waste from fowls and animals other than humans.
 - b. Solid or dissolved material in:
 - 1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters;
 - 2. Irrigation return flows; and
 - 3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this article.
 - c. Oils and other liquid hydrocarbons controlled under article 21A of chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this article.
 - d. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. Par. 2011).
 - e. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this article.

(48) *Special wastes* means solid wastes that can require special handling and management, including white goods, whole tires, used oil, lead-acid batteries, and medical wastes.

(49) *Tipping fee* means the charge per ton approved by the city council for processing and disposal of solid waste as well as the capital and operation and maintenance costs associated with the materials recovery facility.

(50) *Tire* means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle as defined in G.S. 20-4.01(23).

(51) *White goods* include inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

(52) *Yard waste* means solid waste consisting solely of vegetative matter which includes, but is not limited to, tree limbs, grass clippings, weeds, bush clippings, leaves, brush, and etc. resulting from regular maintenance of yards, gardens, and landscaping maintenance activities. Yard waste does not include entire trees, large tree trunks, stumps, or clearing activities. It also does not include any material generated by commercial tree companies.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08; Ord. No. 7391/18-20, 3-5-18)

Sec. 6-2-2. Responsibility for solid waste removal.

Responsibility for administration of residential solid waste removal shall lie with the public services department. Bulk containers, roll-off containers, or detachable containers shall be removed by private contractors. Persons desiring to collect bulk containers, roll-off containers, or detachable containers shall secure a permit from the public services department.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Sec. 6-2-3. Containers required for solid waste removal.

All householders and business proprietors shall provide the necessary receptacles as indicated by this chapter for solid waste subject to removal by the environmental services division of the public services department or private contractors.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Sec. 6-2-4. Solid waste containers; size, type, etc.

- (a) Rollout carts constructed so that they can be emptied by the lifting devices mounted on city trucks are required and shall be of a type and size approved by the department of public services.
- (b) Bulk containers are authorized per the specifications as set forth by the director of public services. Distributors of bulk containers who wish to sell or lease such containers in the city are subject to approval by the director of public services and must have on file in the public services department a service and maintenance agreement for such containers.
- (c) Twenty-to-40-yard detachable containers are authorized through private contractors. Such contractor must be approved by the director of public services.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Sec. 6-2-5. Preparation of solid waste for collection.

Solid waste materials are collected once per week beginning at 7:00 a.m. (with the exception of that area designated as the Central Business District, which must be placed at the curb by 5:00 a.m., the day of collection). Solid waste materials may change their beginning collection time to 6:00 a.m. when necessary to accommodate warmer days and stay open past their closing times to accommodate for Environment Services personnel shortages, equipment failures, or equipment shortages as deemed necessary. Rollout carts, recycling containers, and yard waste should be placed at the curb by 6:00 a.m. the morning of regularly scheduled collection. Rollout carts shall be removed from the curb the date they are serviced. Contractors, businesses, landlords, retail, etc. are responsible for the removal and disposal of their generated solid waste.

- (a) All solid waste shall be placed in approved rollout carts. No loose bags of garbage shall be placed at the street and will not be collected. All bags must be contained in the approved rollout carts. It is recommended that all garbage be contained in bags as to prevent spillage during servicing. The city manager may authorize city crews to collect additional bagged solid waste on certain occasions during the year (such as Christmas) for a set time period, such as two (2) weeks after the holiday. The maximum number of rollout carts allowed for garbage service for any one (1) household is two (2) carts.
- (b) Yard waste shall be placed at the curb in a city approved yard waste rollout cart, boxed, bagged in clear plastic bags, or secured in bundles weighing no more than 50 pounds and not exceeding a length of four (4) feet. Yard waste may not be mixed with any other types of solid waste.

Loose tree limbs (LTLs) not conforming to yard waste requirements shall not be collected by the city. It is not the intent of the city to collect large portions of trees, entire tree(s), or lot clearing debris. Any tree trimming or removal performed at a multi-family residential unit or condominiums, or by a commercial company, business, landscaping company, or entities other than the property owner shall be responsible for the complete removal and disposal of all materials.

In the event of a storm (ice, tornado, severe thunderstorm, etc.), the City Manager may authorize the collection of loose tree limbs for a set time period (i.e. four (4) weeks) for crews to remove all limbs placed at the curb as a result of storm cleanup.

- (c) Loose leaves may be placed at the edge of the road (not in the road, ditchline or curbline) for loose leaf collection during the late fall and early winter each year (approx. November through January). Collection schedules will be advertised and published. No other yard waste shall be included or mixed with loose leaves (no sticks, brush, or bagged leaves/grass).
- (d) Bulky items shall be placed at the curb free from overhead wires, trees and tree limbs, mailboxes, utility poles, vehicles, or other endangerments that would impede collection. This service is intended for the occasional disposal of a mattress, appliance, furniture items, carpet, or other like items from a property owner or tenant. The bulky item service is not intended as a cleanout/disposal for removing all items from a property. Bulky items service does not apply to any business. No tires will be collected by the city. Tires shall be disposed at the county tire facility.
- (e) The city provides for the collection of recyclable materials and strongly encourages all residents to participate. Recyclable materials should be placed in a city-approved container. Acceptable materials are defined above and in city literature. Materials do not require sorting. Only recyclable materials should be placed in the containers. Mixing garbage, yard waste or other materials with recyclables will result in a notice of violation and no collection.
- (f) Materials such as computers, monitors, TVs, batteries, chemicals, oils and other hazardous materials are not accepted as recyclable or solid waste and should not be placed in any container and will not be collected. These items may be recycled at the county's household hazardous waste recycling facility or other approved sites. Plastic bags (#2 LDPE) should be returned to retail stores for recycling and should not be included in weekly recycling collection.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Sec. 6-2-6. Availability and extent of service.

- (a) Rollout carts shall be serviced once per week with the exception of the Central Business District (CBD), which shall be serviced four (4) times per week. This service includes garbage and yard waste. No customer shall have more than two (2) rollout carts for garbage service. The city reserves the right to suspend, delay, or alter the time of collection of one (1) or all services temporarily should snow, ice, storms, flooding, extreme heat/cold or other conditions make it unsafe for the public or employees during collection operations. Recyclables and bulk items will be collected every other week.
- (b) As a courtesy, backdoor service is available for garbage (weekly) and recycling (biweekly), provided that prior approval has been granted by the environmental service superintendent, upon verification of a valid medical reason by a medical doctor for those persons who are physically unable to place their rollout cart to the curb. The city also reserves the right to periodically verify the need to continue backdoor service to residents who have been approved to receive the service. The city reserves the right to continue or discontinue backdoor service. The director of public services or his designee shall have the authority to determine the proper location for rollout carts for disabled residents.
- (c) Single-family attached housing (townhomes) shall be serviced as subsection (a) above, provided the city shall be held harmless against any and all claims for pavement damage resulting from rollout cart service, and provided the drives are designed for proper movement of solid waste collection vehicles. Developers, at their option, may request bulk container service.
- (d) All locations, except for single-family dwellings, which generate more solid waste than can be serviced by two (2) rollout carts once weekly, shall be required to furnish a bulk container of the type approved by the

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director of public services, provided that such container can be installed and serviced. Solid waste collection service for this container shall be by private contractor.

(Ord. No. 91-57, 7-18-91; Ord. No. 92-20, § 1, 3-5-92; Ord. No. 6586/08-71, 10-20-08)

Sec. 6-2-7. Purchase of roll-out carts.

Rollout carts for garbage, yard waste, and recycles shall be purchased from the city. All carts will carry a 10-year warranty against defects for materials and workmanship.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Sec. 6-2-8. Interfering with collection practices.

No person or persons shall interfere, meddle with refuse containers or in any way pilfer, scavenge, scatter the contents of, or place junk in any alley or street within the city limits or otherwise deter the normal solid waste collection process by tampering with solid waste containers unless by permission of the environmental services superintendent or his representative, nor shall any person place any hazardous waste in any collection receptacle. This applies to garbage, bulky items, yard waste, medical waste and recyclables. A violation of this section is punishable as a misdemeanor.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Commented [TNE20]: Criminalized as suggested by Robby Stone. Also, added types of waste suggested by Robby Stone.

Sec. 6-2-9. Littering.

Littering is prohibited. It shall be a violation of this chapter for any person to intentionally or recklessly throw, scatter, spill, sweep, or deposit or otherwise dispose of garbage, litter, debris, trash, or other materials

- (a) On any property or private property not owned by him/her;
- (b) In a manner that it may be carried or deposited by the elements on any street, sidewalk, alley, storm drain, or other public or private property or place; or
- (c) In any stream, creek, waterway, or body of water.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Commented [TNE21]: Did not criminalize even though Robby Stone suggested because this is covered under state statute (G.S. 14-399), so this leaves the civil violations in place, but criminal violations would be enforced by the police department using G.S. 14-399.

Sec. 6-2-10. Medical waste.

No medical waste shall be deposited or permitted to be deposited in the waste stream within the flow control area. The director of public services shall terminate solid waste collection services to any commercial establishment at which a violation of this section occurs. Such termination ~~is not a penalty, but shall nevertheless~~ be in addition to and not in lieu of the imposition of civil or criminal penalties for violation of this chapter.

Sharps as defined above shall not be placed in the rollout carts, recyclable containers, or other containers for regular solid waste collection. All sharps items should be placed in an approved sharps container as defined above, but not placed in the regular solid waste stream. Residential customers may call the city's customer service division (336-883-3111) to schedule a pickup of the sharps containers free of charge. If a customer is found to repeatedly place sharps in the regular solid waste collection, the director of public services may discontinue solid waste service to the property and/or impose violation fines. Any violation of this section is punishable as a misdemeanor.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Commented [TNE22]: Criminalized as suggested by Robby Stone.

Sec. 6-2-11. Responsibility to place solid waste for collection.

It shall be the responsibility of each householder or storekeeper to place their solid waste for collection at the proper time and in the proper manner as provided for in this chapter.

(Ord. No. 91-57, 7-18-91)

Sec. 6-2-12. Dumping solid waste, etc., on open lots prohibited; exception for landfilling.

No solid waste, yard waste, special waste, or other offensive material shall be dumped, thrown, or allowed to remain on any lot or space within the city limits. However, the owner of any lot or parcel of land desiring to conduct a fill operation shall apply for the appropriate permits, and any fill operation shall be conducted in accordance with all local, state, and federal rules, laws, and conditions contained in the permit. A violation of this section is punishable as a misdemeanor.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Commented [TNE23]: Criminalized as suggested by Robby Stone.

Sec. 6-2-13. Replacement of roll-out carts.

Replacement of rollout carts shall be the responsibility of the property owner, resident, or tenant. The environmental services superintendent shall have the authority to discontinue service when a container becomes unserviceable and advise the householder of same.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Sec. 6-2-14. Removal of small dead animals.

The city provides for the removal of small dead animals (less than 100 pounds). This service is provided five (5) days per week during normal business hours. Small dead animals shall be placed in a plastic bag and put in the rollout cart on the normal schedule collection day or scheduled through customer service (336-883-3111). Dead animals weighing 100 pounds or more shall be removed and disposed of by the owner. The collection of small animals includes dogs, cats, birds, and other similar pets/animals. It does not include livestock, horses, pigs, goats, or similar animals.

Dead animals already in the street or on the edge of the street, when the owner is not identified, will be scheduled for collection by the city upon notification of their existence.

The city will provide dead animal collection to local veterinarians offices for a fee as set by the director of public services. Veterinarian offices shall call the city's customer service division (336-883-3111) to schedule a pickup of dead animals. The city will collect up to 10 animals, none exceeding 100 pounds, during a requested pickup. The veterinarian office is required to bring the dead animals to the truck. Veterinarian offices will be billed for the service per the established fee.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Sec. 6-2-15. Rental trash ~~roll-off container trailer~~ program.

The rental trash ~~roll-off container trailer~~ program provides residents, homeowners, and tenants with a means to remove larger quantities of bulky item materials or yard waste from the property to the landfill or compost facility for a fee. Upon request of a ~~roll-off container trailer~~ and payment of fee (fee as set by the director of public services), the city will deliver a ~~roll-off container trailer~~ to the property for a given time. Disposal and

accepted material rules posted on the ~~roll-off container trailer~~ must be followed. Failure to follow rules for the ~~roll-off container trailer~~ will result in additional fees/fines, additional disposal costs, and/or refusal to accept materials.

(Ord. No. 6586/08-71, 10-20-08)

Commented [TNE24]: Language changed per Robby Stone's suggestions.

Editor's note(s)—Ord. No. 6586/08-71, adopted Oct. 20, 2008, renumbered the former §§ 6-2-15—6-2-18 as 6-2-16—6-2-19 and enacted a new § 6-2-15 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

Sec. 6-2-16. Ownership of all waste collected by public or private collectors.

All solid waste collected in the city by public or authorized private collectors and all solid waste collected in the flow control area shall be delivered to the city landfill, compost facility, or material recovery facility unless otherwise specifically authorized by the director of public services.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Sec. 6-2-17. Flow control area.

- (a) All solid waste generated within the flow control area that is placed in the waste stream for disposal shall be collected, transported, stored, and disposed of by the city at permitted solid waste management facilities of the city in accordance with the solid waste management plan adopted by the DEHNR. The director of public services shall maintain a current map of the flow control area which shall be available for public inspection.
- (b) The director of public services with the approval of the city manager is authorized to grant exceptions to the requirements of subsection (a) of this section in order to effectuate the intent of the solid waste management plan or to enhance or protect the operation of solid waste management facilities, so long as such exceptions are with the approval of DEHNR.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Sec. 6-2-18. Penalty for violation.

Items found in violation of this chapter will be tagged as such to notify the property owner, resident, or tenant of the issue(s). If the violation is not corrected, the city ~~may will~~ take action to remedy the violation. The property owner, resident, or tenant may be fined as described below and will be charged the actual costs of cleanup and disposal.

Violation of any provision of this chapter ~~shall constitute a misdemeanor; shall also or alternatively~~ subject the offender to a civil penalty ~~in the amount of \$500.00; and shall also be subject to appropriate and~~ equitable remedies, including but not ~~being~~ limited to injunctive relief, ~~in accordance with Section 1-1-4 of the Code and G.S. 160A-175. Each day's continuing violation shall constitute a separate offenses.~~

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08)

Commented [TNE25]: Revised this to refer back to the general penalties Section 1-1-4 (unless staff feels strongly about the first violation being \$500).

Sec. 6-2-19. Commercial mattress disposal.

No disposal of mattresses in the landfill from commercial establishments will be permitted.

(Ord. No. 7391/18-20, 3-5-18)

Editor's note(s)—Ord. No. 7391/18-20 , adopted March 5, 2018, added a new § 6-2-19 and renumbered the former § 6-2-19 as 6-2-20.

Sec. 6-2-20. Administration and enforcement.

The administration and enforcement of the provisions of this chapter shall be the responsibility of the public services department.

(Ord. No. 91-57, 7-18-91; Ord. No. 6586/08-71, 10-20-08; Ord. No. 7391/18-20 , 3-5-18)

Title 8 PUBLIC UTILITIES

CHAPTER 2 Water and Sewer

ARTICLE A Water

Sec. 8-2-1. Director of public services department; duties, compensation, composition of department.

The head of the public services department shall be known as the "director of public services"; subject to the supervision and control of the city manager in all matters, he shall manage and have control of the entire operation of the public services department, including metering, operation and control of city water lakes and reservoirs. He shall set the standards of quality and materials to be used in the construction and maintenance of the water and sewer system as well as all planning for the department. The director of public services shall perform such other duties relative to his department as may be required of him by the city manager.

(Ord. No. 97-102(2), § 1(1), 12-18-97)

Sec. 8-2-2. Water division; responsibility.

The water division shall be responsible for adequate maintenance of all water mains, both clear and raw water mains, and including house connections, the construction of all house connections, the maintenance and operation of all pump stations, plants, and reservoirs; and there shall be employed in the division an adequate number of employees to properly maintain and operate the facilities of this division.

Sec. 8-2-3. Water filtration plants; sewage treatment plants.

The water filtration plants and the sewage treatment plants shall be operated under the supervision of the superintendent of plants who shall be responsible for their satisfactory operation. He shall be provided with adequate manpower and equipment to insure the plants comply with all rules, regulations, and laws.

Sec. 8-2-4. Construction of house connections.

Construction of connection. Upon the approval of any application and the payment of the required fee, the city shall install water or sewer connection from the main to the back of the curb and shall be responsible for all excavations, laying of pipe, setting of meterbox, backfilling and pavement replacement.

Sec. 8-2-5. Separate water and sewer connections and meters required.

- (a) Each building shall have a separate water meter and where practicable shall have a separate water lateral. In the event that one (1) lateral is used for two (2) buildings or used to serve two (2) or more meters for the same building a separate cut-off shall be provided for each meter. Each building shall have a separate sewer connection.

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- (b) In the case of group housing developments where more than one (1) building is involved, and where the ownership is in one (1) party, one (1) or more meters may be used for the entire project provided that:
- (1) Bills will be rendered to the owner of the property only.
 - (2) The bill will be calculated by dividing the total consumption by the number of dwelling units served, calculating the individual bills based on the resultant consumption, and then multiplying the individual amount by the number of dwelling units.
 - (3) Should any portion of the development be sold the owners would be responsible for paying whatever additional costs would be involved in bringing the divided development into compliance with this article.

Sec. 8-2-6. Connections and meters to remain property of city.

All meters, boxes, pipes and other equipment furnished and installed by the city in a water and sewer connection shall remain the property of the city. If, after an installation is completed, the property owner requests that a meter or lateral be changed in size and this request is approved by the director of public services, the property owner shall pay for the change of lateral as though it were a new connection and new meter.

(Ord. No. 88-59, § 1, 7-21-88; Ord. No. 97-102(2), § 1(2), 12-18-97)

Sec. 8-2-7. Connection to be made by city only upon application.

The construction of water or sewer laterals within the street right of way and the setting of meters shall be done only by the city, unless prior approval is obtained. The construction of such lateral or the setting of such meter shall be done only after the written application therefor has been approved.

Sec. 8-2-8. Application for connections.

Persons desiring connections made with the city water mains shall make application to the director of public services or designated representatives stating for what purposes the water is to be used, and all applications shall be filed by him. In case of willful misrepresentation on the part of applicant, or any unreasonable waste of water, the city reserves the right to cut off the supply, and assess the applicant with additional cost, same to conform with the rates published. Said application shall be filed not less than 10 days before the proposed connection is desired. When the size of the service and the cost of the connection have been determined, the applicant shall deposit the previously determined cost thereof and shall be issued an approved application for the desired connection. The city shall have no responsibility for the design of a sprinkler or other fire protection system. Application for a connection to serve such a system shall be made exactly as outlined except that the size of the connection desired shall be placed upon the application.

(Ord. No. 97-102(2), § 1(2), 12-18-97)

Sec. 8-2-9. Disapproval of application.

If, in the opinion of the director of public services, the water connection applied for will be of such size or character as to put too great a demand on any part of the system and disrupt the city's ordinary water service, he shall disapprove the application until such time as adequate means are provided to eliminate the unsatisfactory condition. If, at any time, changes are made by a consumer in his service requirements so as to create an unsatisfactory condition in the city's water service, the director of public services shall require the consumer to adopt remedial measures to eliminate the unsatisfactory condition. If the waste proposed to be discharged into the city's sewerage system is, in the opinion of the director of public services of such a nature or of such quantity

as to overload the existing sewerage collection or treatment facilities, he shall disapprove the application and require the applicant to adopt remedial measures to eliminate the unsatisfactory condition. An appeal from the ruling by the director of public services may be made to the city manager and the city manager's decision shall be final. The city shall in no way be responsible for any cost or inconvenience caused by a change in service requirements after an application has been approved or by an installation before the application has been approved.

(Ord. No. 97-102(2), § 1(2), 12-18-97)

Sec. 8-2-10. City to tap all water connections.

- (a) The city reserves the exclusive privilege of tapping the water mains for any and all connections, and, in cases where connections are made to mains located on the system will extend all service pipe to the curbing, where a meter box shall be placed over a meter yoke or meter installation, all of which shall be under the exclusive control of the city and remain its property.
- (b) Meters are a part of the service in supplying city water, and will be set by the city according to the rules and regulations of the public services department.

(Ord. No. 97-102(2), § 1(2), 12-18-97)

Sec. 8-2-11. Charges for water and sewer connections.

- (a) At the time for application for a service connection, a design study will be scheduled and made by division personnel to determine the cost of construction, materials, meter, valves and required appurtenances to furnish the service applied for. Payment of the determined cost is required prior to the start of any construction work by the water division.
- (b) The applicant shall designate the location of the water and sewer tap back of curb and the city will honor this location to the maximum extent practicable.
- (c) The applicant or customer is not to operate or disturb any part of the water service located on the city right-of-way except for the cut-off as provided. All fixtures within the owner's premises must be kept in repair by the customer or property owner.
- (d) Charges for water connections shall be made and amounts paid to the city in advance as set forth in a rate schedule adopted by the city council.

Sec. 8-2-12. Service pipes to be provided with stops.

Each water service pipe, one inch or below in size shall be provided with a gate valve and box to be located at a convenient location to turn off the water to prevent freezing of pipes, or in case of accident to water pipes or fixtures. This valve is for the convenience of the property owner.

Sec. 8-2-13. Inspection of plumbing and fixtures prerequisite.

- (a) Water will not be turned on to any premises until the plumbing and fixtures have been inspected by the city and found to be in good and proper condition. No occupant of premises, upon which water has been introduced, shall permit water to be used, taken or received by any person other than the occupant or member or visitors of his family; provided, that this shall not be construed so as to prevent any person who has contracted for water on his own premises, and whose fixtures are out of order, from obtaining water from some other person, with the consent of the person occupying the premises. This arrangement shall be

terminated after the fixtures have been repaired or within one (1) week. All plumbing fixtures shall be installed in accordance with the North Carolina Plumbing Code.

- (b) Failure to repair plumbing fixtures or water and sewer service lines, after notification to repair has been given, shall be grounds for terminating water services to premises until such repairs are made.
- (c) No persons other than the director of public services or his designated representative shall turn on the water to any premises.

(Ord. No. 97-102(2), § 1(2), 12-18-97)

Sec. 8-2-14. Adjusting and repairing water meters.

- (a) After the tap and meter cost has been paid by the property owner, the public services department will keep the service in repair thereafter, without further expense to the property owner, except that in case of malicious damage or in case of damage caused by hot water being forced from the premises through the meter from boilers, range tanks, etc., the property owner or tenant shall pay the cost of repairs.
- (b) No person, except a duly authorized employee of the city or authorized plumbers, shall turn the stopcock installed in each meter box; nor shall any person construct or have constructed any bypass around any meter except as may be installed and sealed by the city. The fact that water is cut on to any premises by anyone other than the city or its agents without the knowledge of either the city or the owner shall not relieve such premises of liability for such unauthorized use of water.
- (c) No person or persons except the city will be allowed to adjust, turn off, remove or repair meters.

(Ord. No. 97-102(2), § 1(2), 12-18-97)

Sec. 8-2-15. Water for building purposes.

- (a) *Special permit required.* No water shall be used for building purposes except under a special permit from the director of public services, and billing for such a permit shall be, according to rates fixed by the city for building purposes.
- (b) *Water for construction; no permanent service needed.* Portable meters for connection to fire hydrants may be furnished by the city after an application has been filed and a deposit as set forth in fee schedule adopted by city council has been paid to the city. The applicant shall be responsible for any damage to the hydrant, meter, connections, etc., used in the installation and the cost of any such damage shall be billed to him. Any charges outlined in the rate schedule adopted by city council shall be charged in addition to the cost of the water used. After deducting the water charge, the city shall refund any balance of the deposit to the applicant as soon as the meter is removed and returned to the city stock in good working order. If the meter or hydrant is damaged in any way, the total cost of repairs shall be billed to the applicant. While in use, no wrench shall be used on the hydrant except an approved hydrant wrench furnished by the city. Additional requirements may be necessary at the request of the fire department. A service fee shall be charged to set or remove any portable meter at a rate set by city council. No meter shall be moved or set except by public services personnel.
- (c) *Single site building purposes.* Water for single site building purposes shall be obtained through the water tap, service line and meter to service the future structure wherever permanent service will be provided. Billing will be at standard rate for water, including sewer charge.
- (d) *Multi-unit building purposes.* Water for multi-unit building purposes shall be obtained through the water taps and service lines where the permanent service shall be provided. A portable meter shall be rented from the city by a licensed plumber or contractor for the established fees. The city will set the portable meter only in

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the existing boxes and yokes provided for permanent service. A service fee shall be charged to set or remove from the site the portable meter at a rate set by the city council per trip. The contractor or plumber shall notify the city meter shop, the location of any moved portable meter on the site. No meter shall be moved from the site except by city personnel.

(Ord. No. 85-37, § 1, 7-1-85; Ord. No. 97-102(2), § 1(2), 12-18-97)

Sec. 8-2-16. Right of entry.

- (a) Inspectors, meter readers or authorized employees of the city whose duty it may be to enter upon private premises to examine meters, pipes or other fixtures used in connection with the city's water service shall have free access at all reasonable hours to all parts of such premises for the purpose of inspection, meter reading, examination of fixtures, and observation of the manner in which water is used. In case any authorized employee is refused admittance to any premises for any such purpose or is hindered or prevented from making such examination, the water shall be turned off and shall not be turned on again until free access is given.
- (b) In case such person finds that the water is wasted through any water or sewer facilities on account of negligence, for want of repairs, or for any improper cause, and if such waste is not immediately remedied, the water leading to such premises shall be turned off, and shall not be turned on again until such repairs are made; and the fees as prescribed in a rate schedule adopted by city council shall be paid before turning on water.

Sec. 8-2-17. All service connections to be provided with water meters.

All water service connections shall be provided with standard, approved water meters. Meters to be purchased from the city by the property owner or consumer, in accordance with established charges and to be installed by the city and placed as near to the curb or property line of the property to be served as possible, and at all times to be under the control of the city; and the regular established and published meter rates for water as hereinafter provided shall be charged in every case.

Sec. 8-2-18. Testing meters and fixtures; charges.

The city shall test or cause to be tested and make a thorough examination of water meter and all fixtures where so desired by the consumer under the following conditions:

- (1) *First:* Should the test of meter and inspection prove the excessive bill to be caused by the water division, inaccuracy of the meter, or for any cause the fault of the water department, then the expense of said investigation shall be borne by the department.
- (2) *Second:* Should the test and inspection prove to be the fault of the consumer or any person not connected with or in the employ of the water division, then the actual cost of said investigation is to be borne by the consumer making the protest and asking for the inspection, said actual cost to be fixed at a rate as set forth in a fee schedule adopted by city council for each case where the size of the meter is not larger than one inch, larger meters at actual cost plus 20% overhead and insurance cost.

Sec. 8-2-19. Procedure in case of delinquent consumer vacating premises.

In cases where consumers have vacated the premises leaving unpaid water bills, they will not be furnished water elsewhere in High Point area until said water bills have been paid.

Sec. 8-2-20. Unauthorized turning on of water after turn-off by public services department.

If the water has to be cut off from any premises by the city for the nonpayment of a bill or bills or for any other cause authorized by this chapter and if the water is afterwards turned on without the authority of the city, then the city has the authority to remove the meter or unauthorized device(s).

(Ord. No. 97-102(2); § 1(3), 12-18-97)

Sec. 8-2-21. Authorized meter removal, yoke removal, and other water-termination actions.

The city is authorized to take the following action:

- (1) *Meter removal.* The physical removal of the meter, after a turn-on by a customer after the turn-off by the public services department, is authorized.
- (2) *Unauthorized meter.* A meter that has been assigned to designated service in the system but found in another service shall be removed by the city.
- (3) *Unauthorized devices.* An unauthorized device (e.g. straight piece of pipe or nipple) used to obtain water service shall be removed by the public services department along with the yoke.
- (4) *Main cut.* In order to stop a customer from installing unauthorized meter(s) and/or device(s) to obtain water, the water service may be cut at the main supplying water.
- (5) *Reconnection fees.* Reconnection fees shall be charged and payment received in accordance with established fees and charges in effect at the time prior to any cut on.

(Ord. No. 97-102(2); § 1(4), 12-18-97)

Sec. 8-2-22. Regulation of fire protection mains.

When a fire protection (sprinkler) system is installed and connected to the city water system, the fire protection system shall be kept separate from all other water uses at all times.

- (1) Whenever a fire protection system is proposed, the owner shall submit the required plans and specifications to the director of public services. The director shall prepare an "Application for Approval of Plans and Specifications for Water Supply Systems," and the completed packet shall be submitted to the environmental health section, division of health services, department of human resources, or its successor organization, for approval. After the environmental health section has approved the plans and specifications and returned them to the director of public services, he shall return one copy of the approved plans and specifications to the owner, and upon payment of a tap fee as set forth in a fee schedule approved by the city council, the appropriate tap shall be made onto the city water system. After the fire protection system has been installed, a certification from the installing contractor and owner shall be made that the fire protection system has been installed in strict accordance with the approved plans and specifications. Failure to comply with this certification will be grounds for discontinuance of the fire protection service.
- (2) It shall be unlawful to tap any portion of the fire protection system for any other purpose. No water shall be used in or about any industrial plant, place of business, private grounds, or residence, except such use as is supplied through regular meters, provided that where city water is desired or required through public or private hydrants or other connections not metered, the same shall be supplied only by the city and the regular charge for the estimated or metered amount of water thus consumed shall be made and collected as other water bills, with penalty for failure or refusal to pay.

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- (3) If it is detected that fire protection systems are being used for other purposes and if the practice is continued after notification to cease, the city will require the installation of metering devices to be installed at the owner's expense.
 - (4) No sprinkler system will be approved by the city using chemicals or other agents without the use of approved back-flow preventors to prevent the backflow of these alien substances.

(Code 1982, § 8-2-22; Ord. of 10-21-82; Ord. No. 97-102(2); § 1(5), 12-18-97)

Sec. 8-2-23. Tampering with water fixtures.

It shall be unlawful to turn on water, tamper with, obstruct, rearrange or interfere in any manner with any public or private fire hydrant, water meter or water connection on which city water pressure is maintained, or with any sewer connection or manhole or any pipe lines connected with the city water and sewer system.

Sec. 8-2-24. Trespassing on city facilities.

It shall be unlawful for any person not authorized by the director of public services to enter upon or in any manner trespass upon the fences or grounds of the several water plants, waste water plants, pump stations and reservoirs located in various parts of the city, or to enter upon rights of way properly posted with signs forbidding trespassing or to tamper in any way with any of the machinery, fixtures, wires, hydrants or other utility equipment or property of the city.

(Ord. No. 97-102(2); § 1(5), 12-18-97)

Sec. 8-2-25. Water rates.

Rates of water consumed through meters approved by the city shall be as set forth by a rate schedule adopted by city council, a copy of which will be on file in the city clerk's office.

- (1) Adjustment of bills upon failure or inaccuracy of meter. Refer to city council policy entitled "Water and Sewer Policy."
- (2) Adjustment of excessive water and sewer bills due to concealed leaks. Refer to city council policy entitled "Water and Sewer Policy."

Sec. 8-2-26. Water outside corporate limits.

- (a) No master meters shall be set for sale of water to be used beyond the corporate limits of the city and no line or lines owned by the city or by any other person shall be extended, expanded or enlarged except upon approval of the city council. Should such line or lines owned by any person other than the city, be hereafter enlarged or expanded, without permission, the furnishing of all water for such line or lines shall be discontinued until all requirements of this chapter are complied with.
- (b) Any person residing outside the corporate limits of the city and seeking permission to tap on any water line presently located outside or inside the city limits, whether said line is controlled by a master meter or not, must first make written application to the city council and must, when requested, furnish any information concerning location, size and length of line to be tapped, connections to be made, and the number of customers already on the line, and any other information deemed necessary and requested by the public services department and must secure the approval of the director of public services and of the city council before such connection is made.

Tap-on privileges shall be granted only to person whose property or properties abut said line, and then tap-on line shall be of sufficient length only to reach one family, firm or corporation unit, and in no instance to extend more than 1500 feet, without special permission of the city, as provided in this chapter. Any extension, alteration, or tie-on or tap-on so as to serve water to persons situate or not situate on property abutting water line is forbidden. Any violation of this section shall constitute a misdemeanor. Should any person violate the provisions of this section, the city council shall revoke the permission to tap-on and shall disconnect any and all lines affected by such violation, and such disconnection shall remain in effect until the owner or owners comply with the regulations and provisions of this section.

- (c) Rates outside corporate limits shall be as follows: Refer to rate schedule adopted by city council.
- (d) Charges for water connections outside corporate limits of the city shall be by rate schedule adopted by the city council, plus an additional amount as set forth by city council per front foot of property if the connection is made to a line six inches in diameter or larger. Calculations will be based on a lot or a smaller tract as shown on an approved and recorded plat, or a recorded deed, or a frontage equivalent of 100 feet for a dwelling on an undivided tract of land. For other conditions the director of public services may determine the frontage or frontage equivalent in keeping with the spirit and intent of the assessment policy for similar conditions inside the city limits. Provided that water connection charges on lines installed under the agreement with Guilford County shall be the same rate for water connections inside the corporate limits.
- (e) Property adjacent to a street in which the city has installed a new water line that is legally being served directly or indirectly by the city water system may be permitted to continue this service by the customer paying an amount of money in lieu of assessment as stated in this section. The customer must submit an application on a form provided by the city and pay to the city the required amount of money within 30 days after he has been notified in writing that the new lines have been installed. This notice will be mailed to the customer no later than 30 days after the line is ready for use. Failure on the part of the customer to comply with these requirements will cause his service to be discontinued, and the customer to be treated thereafter as a new applicant. Plats, deeds, or other information as required by the director of public services to determine the amount of payment shall be furnished by the applicant.
- (f) A new applicant shall complete and submit to the director of public services the application form provided by the city and will furnish such plats, deeds, or other information as required to determine the amount of payment for the service.
- (g) Any property owner desiring to connect to a water main laid under assessment, shall, in addition to the regular tap-on fee, pay an amount equal to his pro rata share of the assessment.
- (h) Outside consumers shall be bound by all rules and regulations set forth in this chapter except as otherwise provided. All installations presently connected to lines carrying city water outside the city limits, regardless of ownership of the lines, shall be inspected by the inspection division of the city at the city's expense.
- (i) An agreement shall be signed by the customer to abide by all pertinent laws, rules, regulations and contracts on file with the city clerk including the following conditions:
 - (1) Any unpaid water or sewer bill shall be and remain a lien upon the property served until fully paid.
 - (2) No deposit shall be required of an owner of any premise. Deposits shall be required of all tenants in accordance with a rate schedule adopted by the city council and applicable rules and regulations.
 - (3) No person may sell or offer for sale any water purchased from the city.
- (j) Any installation which does not comply in every respect with the provisions of this chapter shall be disconnected immediately from city water service and may not be reconnected until such provisions are complied with and a certificate of compliance has been issued by the inspection division.
- (k) ~~In the event of a~~ Reconnection without such certificate ~~by the customer and or the owner of the line is a violation of this section shall be guilty of a misdemeanor.~~

Commented [TNE26]: Changed this to avoid repetition with the above language that was added.

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- (m) All installations hereinafter to be connected to lines carrying city water outside the city limits shall first be inspected by the city, or as per the applicable extension policy, at the expense of the consumer.

(Ord. No. 97-102(2); § 1(5), 12-18-97)

Sec. 8-2-27. Water used without prior knowledge of department; premises charged for estimated amount used.

Should any person use water without the knowledge of the public services department and afterwards it should come to their knowledge that water has been used, a bill will be made against the premises for the estimated amount of water used, or the quantity shown by the meter to have been used, and the water cut off and not turned on again until the bill has been paid.

(Ord. No. 97-102(2); § 1(5), 12-18-97)

Sec. 8-2-28. Charges will accrue until department is notified to cut off service.

Water being cut off by the owner or other than city employees, does not relieve the premises from paying water rates. Bills will be collected until the city is notified in writing or in person to shut off the water.

Sec. 8-2-29. Duty of occupant of premises when ordering water turned on.

Parties ordering water to be turned on at their premises should be careful to have all pipes properly connected and faucets closed, so that the building or dwelling may not be flooded. The city will not be liable for any damages caused by flooding when faucets or openings are not closed.

Sec. 8-2-30. Fire hydrants; authorized users.

- (a) Public fire hydrants and water therefrom are primarily for the use of the fire department to render fire protection service. The employees of the water division are to operate and use them, without special permission for inspection, repairs, cleaning mains of stale water and for water needed in the operation of the department and for no other purpose.
- (b) The employees of the fire department are to operate and use them, without special permission, for inspection, repairs and fire protection and for no other purpose.
- (c) Any person may shut off a fire hydrant opening in order to stop a gushing flow of water caused by an accident.
- (d) No other person may use a public fire hydrant for any purpose, except by permission in writing, stating the purpose of such use, signed by the director of public services.
- (e) Any person using or obtaining water from a public fire hydrant except as herein authorized, shall be assessed a penalty as set forth in a rate schedule adopted by city council in addition to the charge for water actually used or obtained.

(Ord. No. 97-102(2); § 1(5), 12-18-97)

Sec. 8-2-31. Protection of public fire hydrants, water meters, meter boxes and valve boxes; duty of person causing damage.

- (a) It shall be unlawful for any person to break, or in any way damage, or cause to be broken, or damaged, or to make inaccessible, any public fire hydrant, water meter, meter box, or gate valve box connected to the city water system.
- (b) When and where any of the above mentioned structures are broken or damaged, by accident or otherwise, it shall be the duty of the person having had the accident, or caused damage to report the matter to the police department, fire department, or the public services department. Failure to make the report as above shall be unlawful.
- (c) At any time a driveway may be constructed over an existing meter box, the water division shall, upon application, replace said meter box with a heavy duty meter box, at the expense of the applicant.

(Ord. No. 97-102(2); § 1(5), 12-18-97)

Sec. 8-2-32. Private fire hydrants to be used only in case of fire; penalty.

Private fire hydrants or any other fire protection fixtures on unmetered services, located on private premises to secure lower insurance rates, and for fire protection, must not be used except in case of fire. Any person using or obtaining water from private fire hydrants or other fire protection fixtures on private premises, except in case of a fire, shall be assessed a penalty as set forth in a rate schedule adopted by city council in addition to the charge for water estimated used or obtained.

Sec. 8-2-33. Billing.

The city will endeavor to deliver to the consumer by mail or messenger a monthly statement of the amount due for water furnished, but failure to receive such statement will not entitle the consumer to any delay in the settlement of each monthly account beyond the date when the bill is due and payable. All bills are net and payable at the office of the city collector any weekday during normal business hours. If not so paid, the gross rates provided in this chapter plus the appropriate fee as prescribed in a rate schedule adopted by city council shall then apply and service will be discontinued in accordance with city billing procedures.

Sec. 8-2-34. Backflow prevention program.

[The backflow prevention program is] a program designed to protect the potable water supply of the City of High Point. This will be accomplished by requiring the use of appropriate backflow protection methods. The possibility of contamination will be minimized by confining with the customer's private water system those contaminants or pollutants which could, under adverse conditions, backflow through uncontrolled cross-connections into the public water system.

(1) *Definitions.*

- a. *Air gap separation.* The unobstructed vertical distance through the atmosphere between the lowest point 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 separation" shall be at least double the diameter of the supply pipe. In no case shall the air gap separation be less than one (1) inch.

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- b. *Approved.* In reference to backflow prevention assemblies or methods, those assemblies or methods which have been accepted by the director as an effective means or method to prevent backflow.
 - c. *Backflow.* Any flow of water, liquid, gas or other substance, or any combination thereof, into the distribution piping of a potable water supply from any source or sources.
 - d. *Backflow prevention assembly.* An approved assembly or method used to prevent backflow from occurring in the potable water supply.
 - e. *Back-pressure backflow.* Backflow caused by a pump, elevated tank, boiler or other means that could create pressure within the system greater than the supply pressure.
 - f. *Back-siphonage backflow.* A reversal of the normal direction of flow in the pipeline due to a negative pressure (vacuum) being created in the supply line with the backflow source subject to atmospheric pressure.
 - g. *Certified tester.* A person who has proven his/her competency to test, repair, overhaul and prepare reports on backflow prevention assemblies as evidenced by certification of successful completion of a training program approved by the director.
 - h. *Consumer/customer.* Any person, firm, or corporation using or receiving water from the City of High Point water system.
 - i. *Containment.* Prevention of possible contamination from a private water system by installing an approved backflow prevention assembly.
 - j. *Contamination.* The degradation of the quality of water so as to constitute a hazard or impair the usefulness of water.
 - k. *Cross-connection.* Any physical connection between the city's water supply system and any other source. This includes piping systems, sewer fixtures, containers, or devices whereby water or other liquids, mixtures, or substances may flow into or enter the city's water supply system.
 - l. *Cross-connection inspector.* An employee of the City of High Point designated by the director to administer and enforce the provisions of this section.
 - m. *Degree of hazard.* Derived from an evaluation of the health, system, plumbing, or pollution hazards.
 - n. *Director.* The director of the city public services department.
 - o. *Double check valve assembly.* An assembly composed of two (2) single, independently-acting approved check valves, including tightly closing shut-off valves located at each end of the assembly, and suitable connections for testing the watertightness of each check valve.
 - p. *Double check-detector check valve assembly.* An assembly composed of an approved double-check valve assembly with a bypass water meter and a meter-sized approved double-check valve device. The meter shall register accurately for very low flow rates and shall register all flow rates.
 - q. *High hazard.* An actual or potential threat of contamination to the public water system or to a private water system to such a degree or intensity that there could be a danger to health.
 - r. *Imminent hazard.* An actual threat of contamination that presents a danger to the public health with consequences of serious illness or death.
 - s. *Moderate hazard.* One that presents foreseeable and significant potential for pollution, nuisance, aesthetically objectionable or other undesirable alterations of the drinking water supply.

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- t. *Point of delivery.* The terminal end of a service connection from the public potable water system, i.e., where the director loses sole jurisdiction over the water; the point where water leaves the public water system and enters a private water system.
 - u. *Potable water:* Water from any source which has been approved for human consumption by the appropriate agency of the State of North Carolina.
 - v. *Private water system.* A system of pipes or other associated facilities that is not part of the city's public water system and is used to move or receive water, regardless of the source of water in such system.
 - w. *Reduced pressure principle assembly.* An assembly containing within its structure a minimum of two (2) independently acting, approved check valves, together with an automatically operating pressure differential relief valve located between the 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 pressure. In case of leakage of either check valve, the differential relief valve, by discharge to the atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure. The assembly must include properly located test cocks and tightly closing shut-off valves at each end of the assembly.
 - x. *Reduced pressure principle-detector assembly.* An assembly composed of an approved reduced pressure principle backflow prevention assembly with a bypass water meter and a meter-sized approved reduced pressure principle device. The meter shall register accurately for very low flow rates and shall register all flow rates.
 - y. *Water supply (approved).* Any public potable water supply which has been investigated and approved by the appropriate agency of the State of North Carolina. The system must be operating under a valid health permit.
- (2) *Elimination of cross-connections.*
- a. No private water system may be connected in any manner to the public water system unless the requirements of this section and other applicable laws have been satisfied.
 - b. Only an approved device can be installed to meet the requirements of this section. The installation of any backflow prevention assembly which is not approved must be replaced with an approved backflow prevention assembly.
- (3) *Installation, testing and maintenance of backflow prevention assemblies.*
- a. All backflow prevention assemblies shall be installed in accordance with the manufacturer's instructions and those furnished by the City of High Point. Only backflow preventers approved by the City of High Point shall be installed.
 - b. All backflow prevention assemblies required by this section must be installed and maintained on the customer's premises as part of the customer's water system.
 - c. Ownership, testing and maintenance of the backflow prevention assembly will be the responsibility of the customer. Each assembly required in this ordinance must be functioning properly at all times.
 - d. Testing of backflow prevention assemblies shall be conducted by a certified tester at the customer's expense. Tests shall be conducted upon installation and annually thereafter with a record of all testing and repairs retained by the customer. A copy of the certified record for each test or repair must be sent to the City of High Point by such customer within 30 days after the

completion of each test or repair. Such records must be maintained on forms provided by the City of High Point.

- e. Each backflow prevention assembly required under this section must be accessible to the City of High Point.
- f. When it is not possible to interrupt water service, the customer shall provide for the parallel installation of an approved backflow prevention assembly. The director will not accept an unprotected bypass around a backflow preventer when the assembly is in need of testing, repair or replacement.
- g. Any time that repairs to backflow assemblies are deemed necessary, whether through annual testing or routine inspection by the owner or by the City of High Point, these repairs must be completed within a time specified in accordance with the degree of hazard. Repairs on a private water system considered to be an imminent hazard shall be completed within 24 hours, a high hazard shall be completed within 10 days, and all other repairs within 20 days for any other private water system. Failure to comply can result in termination of a customer's water service.
- h. Upon determination that a backflow prevention assembly is required to be installed on a customer's private water system, the customer will be notified in writing of the approved backflow prevention assembly which is required. On existing systems, the customer will have the following time periods within which to install the specified backflow prevention assembly.

Days

Air-gap separation 30

Reduced pressure principle assembly ($\frac{3}{4}$ "—2") 30

Double check valve assembly ($\frac{3}{4}$ "—2") 30

Reduced pressure principle assembly (2½" and larger) 60

Double check valve assembly (2½" and larger) 60

Other approved backflow prevention assembly 30

The director may require the installation of the required backflow prevention assembly immediately or within a shorter time period than specified above if he determines that any condition poses an unreasonable threat of contamination to the public water supply system. All devices required for new construction shall be installed prior to occupancy.

- i. All new construction plans and specifications shall be made available to the director for approval and to determine the degree of hazard.
- j. The director shall be notified by the customer when the nature of the use of property changes so as to change the hazard classification of the property if necessary.

(4) *High hazard facilities and methods of correction.*

- a. All high hazard facilities must have an approved reduced pressure principle assembly as a minimum containment device.
- b. High hazard facilities include, but are not limited to: Any private water system used or designed for use with a booster pump or which may become pressurized for any reason to the extent that back pressure may occur; any private water system which contains water which has been or is being recirculated; a building with five (5) or more stories above ground level; brewery; car wash with recycling system; bottling plant; chemical plant; dentist's office; dry cleaning plant; fertilizer plant; film laboratory; fire sprinkler or standpipe system with chemical additives; hospital, clinic,

medical building; irrigation system with chemical additives; laboratory; commercial laundry (except self-service laundry); metal processing plant; morgue or mortuary; nursing home; pharmaceutical plant; power plant; swimming pool; sewage treatment plant; tire manufacturer; veterinary hospital or clinic; restaurants; battery manufacturers; exterminators and lawn care companies; dairies; canneries; dye works; recycling facilities.

- c. If a cross-connection inspector does not have sufficient access to every portion of a private water system to permit the complete evaluation of the degree of hazard associated with such private water system, an approved reduced pressure principle assembly must be installed.

(5) *Moderate hazard facilities and methods of correction.*

- a. Moderate hazard facilities include, but are not limited to: Fire sprinkler systems without booster pump facilities or chemical additives; connections to tanks, lines and vessels that handle nontoxic substances; lawn sprinkler systems without chemical injection or booster pumps; all industrial and most commercial facilities not identified as high hazard facilities.
- b. All moderate hazard facilities must have a double-check valve assembly as a minimum containment device.

(6) *Lawn irrigation systems.*

- a. All existing lawn irrigation systems must have a double-check valve assembly as a minimum containment device.
- b. All proposed lawn irrigation systems will be served through a separate meter and must have a double-check valve assembly as a minimum containment device.

(7) *Fire sprinkler systems.*

- a. All unmetered fire sprinkler systems without booster facilities or chemical additives must have a double-check-detector check valve assembly as a minimum containment device.
- b. All unmetered fire sprinkler systems with a booster facility or chemical additives must have a reduced-pressure principle-detector assembly as a minimum containment device.

(8) *Imminent hazards.* If the director determines that a customer's private water system constitutes an imminent hazard, such customer shall install a backflow prevention assembly as may be specified by the director within 24 hours after notice of the director's determination. If the customer fails to take corrective measures in a timely manner or refuses to install the specified assembly, water service to the customer's private water system may be terminated. If the director is unable to give notice to such customer or his representative within 24 hours after the determination that an imminent hazard exists despite reasonable efforts to provide such notice, the director may terminate water service to the private water system until the specified corrected measures are taken. Upon correction of the existing problem and with the director's approval, water service will be continued.

(9) *Right of entry.*

- a. The director or his authorized agent shall have the right to enter any building, structure or premises during normal working hours to perform any duty imposed upon him by this section. Duties may include sampling and testing water, or inspections and observations of all piping systems connected to the public water supply. Prior notice will be given unless an imminent hazard has been reported. Refusal to allow entry for these purposes may result in termination of the water service.
- b. At the request of the director, the customer shall furnish any pertinent information regarding the piping system and chemical storage on such property where cross-connections are deemed possible.

(10) *Responsibility of customer.*

- a. The customer shall be responsible for the elimination of or protection against all cross-connections on his premises.
- b. The customer shall maintain any backflow prevention assembly within his premise in good operating condition. The customer shall correct any malfunction of the backflow preventer which is revealed by periodic testing.
- c. The customer shall be responsible for the payment of all fees for annual testing, retesting in the case that the assembly fails to operate correctly, and repairs.
- d. A customer must immediately notify the City of High Point if the customer has reason to believe that backflow has occurred from the customer's private water system.

(11) *Unapproved source of supply.*

- a. No person shall connect or cause to be connected any supply of water not approved by the State of North Carolina to the public water supply system.
- b. Where a connection to a city water line is made, and the property owner continues to have a well or other source of water, it shall be unlawful for the plumbing servicing any building upon such property to be so connected that any water outlet within the building may be served with water from any source other than the city connection, and it shall also be unlawful to have plumbing cross-connected or so installed that water from the city water system or the private water system may in any way become intermingled.

(12) *Violations.*

- a. A written notice of violation shall be given to any person who is determined to be in violation of any provision of this section.
- b. Such notice shall set forth the violation and the time period within which the violation must be corrected. The violation must be corrected within a reasonable time, as specified in the notice, not to exceed 30 days from receipt of the notice. If the director determines that the violation is occurring on a customer's private water system and that such violation has created or contributed to the existence of an imminent hazard, the customer may be required to correct the violation immediately.
- c. Water service may be terminated to a customer if the customer fails to correct a violation or to pay any civil penalty or expense assessed under this section. Termination of water service will be without prejudice to the city's ability to assert any other remedy available to the city against the customer or any other person responsible for the violation.
- d. The violation of any provision of this section shall subject the violator to a civil penalty. Each subsequent day that a violation listed in subsections (12)d.1. through 4. continues shall constitute a separate and distinct offense according to the following schedule:
 1. Unprotected cross-connection involving a private water system which is an imminent hazard, per day\$1,000.00
 2. Unprotected cross-connection involving a private water system which is a high hazard, per day750.00
 3. Unprotected cross-connection involving a private water system which is a moderate hazard, per day500.00
 4. Unprotected cross-connection for which no other civil penalty is prescribed, per day250.00

Each violation listed in subsections (12)d.5. through 9. shall be considered a one-time violation subject to the following schedule:

5. Falsifying records which are required to be submitted by this section—Tester may be removed from the approved certified tester list and/or 500.00
6. Submitting incomplete records or failing to submit records which are required by this section—Tester may be removed from the approved certified tester list and/or 250.00
7. Failing to test backflow prevention assemblies as required 100.00
8. Failing to maintain backflow prevention assemblies as required 100.00
9. Any other violation of the provisions of this section 100.00
- e. The director may increase any civil penalty assessed under this section by \$100.00 or 50 percent of the maximum civil penalty associated with the violation, whichever is greater, for a second violation of the same provision within a two-year period. Water service may be terminated after a third violation of the same provision within a two-year period.
- f. Any person violating any provision of this section shall pay to the city all expenses incurred by the city in repairing any damage to the public water system caused in whole or in part by such violation and any expense incurred by the city in investigating such violation. All such expenses are deemed to be a part of the civil penalty assessed with the violation.

(Ord. No. 92-114, § 1, 11-5-92; Ord. No. 97-102(2); § 1(5), 12-18-97)

Editor's note(s)—Section 1 of Ord. No. 92-114, adopted Nov. 5, 1992, amended §§ 8-2-34 and 8-2-35 to read as herein set out. Formerly, §§ 8-2-34 and 8-2-35 pertained to definition of the cross-connection and cross-connection prohibited, respectively.

Sec. 8-2-35. Right of appeal.

Upon notice of the backflow prevention method required, the owner may request a hearing to review the selection process with city public services department personnel. If the owner is dissatisfied with the results of this review, a written request for a hearing must be sent to the director within 10 days of the departmental review. Within 10 days, a formal hearing with the director will be scheduled. A written response will be issued within 10 days after the hearing. The owner shall thereafter have the right of further appeal to the city council.

(Ord. No. 92-114, § 1, 11-5-92; Ord. No. 97-102(2); § 1(5), 12-18-97)

Note(s)—See editor's note following § 8-2-34 herein.

Sec. 8-2-36. Interference with waterworks system prohibited; exception.

It shall be unlawful for any unauthorized person to operate, or damage by interference and meddling with, the valves on the street mains, or the curb cock, or any other part of the waterworks system. Plumbers may, in case of accident, or by permission shut off water at the curb cock but shall notify the water division immediately of such action.

Sec. 8-2-37. No guarantee of quality, quantity of pressure of water supply; notice to be given when water is to be cut off.

The city does not guarantee the quality, quantity or pressure of its water supply. It is hereby made a portion of the terms on which the city furnished water to consumers that the city shall in no case be liable to any

consumer for any defect on quality or any deficiency in quantity or pressure; that the city shall not be liable to any consumer for damages resulting from the complete or partial cutting off of water; and no deductions shall be made from any water bill by reason of any such defect or deficiency. In every case where practicable, ample notice, shall be given when the water is to be cut off from any portion of the city. No city employee shall take responsibility for telling a property owner or occupant how best to care for his boiler, heater or other equipment which is affected by the discontinuance, either temporary or permanent, of his water supply. The owner or occupant shall be entirely responsible for his equipment and shall hold the city in no way responsible for damage thereof.

Sec. 8-2-38. Protection of water supply.

No person shall contaminate any portion of the city's water supply whether the same is in a reservoir, or tank, or pipe; and no person shall wade, bathe or contaminate any city reservoir or perform any other activity not specifically approved by the city.

Sec. 8-2-39. Pertinent provisions made a part of contracts.

All pertinent rules and regulations are hereby made a part of the terms and conditions whereby the city furnishes water and sewer service to any person, makes any water or sewer connection, or performs any work of any kind in connection with the furnishing of water or sewer service.

Sec. 8-2-40. Emergency water conservation.

(a) *General.*

- (1) *Special emergency resolution.* If the availability of water so limits the water system that unrestricted use may endanger the adequacy of the supply, the director of public services will make a recommendation to the city manager and he shall recommend that the city council, exercising its discretion in the protection of the public health, safety and welfare, may by resolution adopt such emergency use restrictions, including increased rates, as are reasonably calculated under all conditions to conserve and protect that supply and to ensure a regular flow of water through the water system. Emergency water use regulations and restrictions shall remain in force and effect until the city council determines that the conditions requiring their imposition no longer exist.
- (2) *Emergency procedure.* Even if the city council has not adopted a special emergency resolution imposing restrictions when, for whatever reasons the water level at Oak Hollow or City Lake reaches a critical level, or other emergency situations occur, the director shall implement temporary emergency procedures until formal action can be taken by the city council.

(b) *Water conservation program.* The city, in recognition of the need to conserve water during certain water shortage emergencies, will immediately restrict its usages to essential uses of water. In addition to these efforts on the city's part, the following procedures will be implemented as authorized by this section and in accordance with the city's water shortage management policy:

- (1) *Phase one—Water shortage alert.* In the event of a water shortage alert due to high peak demand days which cause the water treatment plant to exceed its designed capacity, all customers of the city's public services department will be requested to voluntarily reduce water consumption by the following:

All city water accounts and water users (residential, commercial, industrial and institutional) are requested to limit noncommercial outdoor water use such as lawn watering, sprinkler systems, pool filling and car washing to odd or even calendar days, depending on the last digit in their address:

Example

2011 E. Kivett (odd) would water on July 31 (odd). And would not water on August 2.

This odd/even plan would start on April 15 and end on September 15, and therefore would be effective immediately.

- (2) *Phase two—Mandatory conservation.* If the water shortage emergency continues and voluntary conservation measures prove inadequate, mandatory conservation will be implemented in accordance with the water shortage management policy. The policy will be enforced by the following:
- a. Affecting the residential water rates whereby consumption above 15 units will be billed at double the normal rate.
 - b. Prohibiting outdoor irrigation with treated water except for handheld hose end nozzle and drip irrigation.
 - c. The director of public services will be empowered to negotiate with all industrial and commercial accounts to ensure that all reasonable conservation measures are implemented. Failure to implement such measures is grounds to terminate services.
 - d. Noncompliance with any provision of the water shortage management policy, or this section will subject the violator to a civil penalty as follows:

	Meters 1" and smaller	Meters 1½" and greater
1st offense	\$100.00	\$200.00
2nd offense	\$200.00	\$400.00
3rd and subsequent offenses	\$300.00	\$600.00
Each day's violations shall be a separate and distinct offense. Two or more incidents involving a single user will also result in loss of service.		

- (3) *Phase three—Stringent conservation.* If the water shortage emergency worsens and mandatory conservation measures prove inadequate, then stringent conservation measures will be implemented in accordance with the water shortage management policy. The policy will be enforced by the following measures:
- a. Double the water rate cost for above 10 units per month.
 - b. The immediate removal of service for any violation of the shortage management policy.
 - c. The director of public services will have the authority to implement additional conservation measures on commercial and industrial customers, including but not limited to percentage reductions of consumption, cutting off specific water consumption units, etc.
 - d. A list of the names and addresses of those charged with violations of this section will be available for public inspection in the office of the city clerk.
- (4) *Phase four—Rationing.* In addition to all restrictions previously imposed, the following measures will be implemented:

-
- a. All other uses of water will be limited to those necessary to meet minimum health and safety needs of the customers.
 - b. The director of public services shall be empowered to limit the hours of service to different sections of the city on a rotating basis in order to maintain minimum health and safety needs.

(Ord. No. 86-29, § 1, 8-7-86; Ord. No. 95-77, § 1, 8-17-95; Ord. No. 97-102(2); § 1(5), 12-18-97; Ord. No. 6500/07-95, § 1, 10-22-07)

Sec. 8-2-41. Connection required.

- (a) Connection to city water and sewer mains are to be made within 30 days. Within 30 days from the time water and/or sewer mains are completed and ready for use, the abutting property owners shall cause such property to be connected to both water and/or sewer mains. If both water and sewer are available the property owner must connect to both at the time of connection, provided that the property owner is notified, in writing, of the installation of said mains. The property owner shall have 30 days after such notification to make the connection. At the time a water connection is made to the city water system all cross-connections as defined in section 8-2-34 shall be disconnected. Under no conditions will interconnected dual water supply systems be permitted. This requirement may be waived by the director of public services department if, in his opinion, a health condition does not require immediate hookup.

(Ord. No. 87-31, 4-16-87; Ord. No. 97-102(2); § 1(5), 12-18-97)

Sec. 8-2-42. Wells.

- (a) *Connection to other than city supply.* No part of the plumbing served by the city's water system shall be connected to any source of water supply other than the city's. If on any premises both city water and water from any other source are used, the piping shall be separated. Pipes carrying water from a source other than the city's supply shall be painted yellow and shall not be returned to the city sewers if city water is available to the property.
- (b) *Annual permit required for drilled wells.* No person shall use or operate a drilled well within the corporate limits of the city or on any premises outside the corporate limits of the city where water is furnished by the city from the city's water supply, without a written annual permit from the director of public services.
- (c) *Application.* Applications for permits required by this section shall be made in writing by the owner of the premises on which a drilled well is located, or his authorized agent or representative. In addition to such information as may be required by the director of public services, the application shall show the use of the water obtained from such well and the manner in which pipes or plumbing are used in connection therewith. An annual inspection shall be made by the department of public services to determine whether or not the use of such drilled well is in accordance with the provisions of the ordinances of the city pertaining to such use. Upon approval of the abovementioned application, an annual permit shall be issued upon the payment of the annual permit fee as set forth by city council.
- (d) *Permit revocation.* Any person using a drilled well contrary to these provisions shall, in addition to other penalties provided by law, have his permit to use or operate a drilled well revoked.
- (e) *Access fee.* If, during the extension of the water and sewer system pursuant to means other than by public necessity or sufficient petition, water and/or sewer service becomes available to adjacent property served by these extensions, no assessment shall be levied. However, if service is later requested by an adjacent property owner, a fee in lieu of assessment shall become due. This fee shall be the current assessment rate in effect at the time of request for service if the property is located inside the city limits. This fee shall be in effect for all property along existing road frontage affected by this extension.

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If the property of the property owner requesting service is located outside the city limits, the access fee shall be the same as is in effect pursuant to the City of High Point-Guilford County Intergovernmental Agreement.

(Ord. No. 87-31, 4-16-87; Ord. No. 97-102(2); § 1(5), 12-18-97)

Secs. 8-2-43—8-2-50. Reserved.

ARTICLE B Sewer⁸

Sec. 8-2-51. Sewer; responsibility.

The public services department shall be charged with the maintenance and repair of all sewer mains, including house connections, pump stations and treatment plants, the construction of house connections, and the operation of all pump stations and treatment plants. There shall be employed in this department an adequate number of employees to properly maintain and operate the facilities of this department.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-52. General provisions.

- (a) *Purpose and policy.* This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of High Point, hereafter referred to as the city, and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403). The objectives of this article are:
- (1) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
 - (2) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;
 - (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
 - (4) To protect both municipal personnel who may come into contact with 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 the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements, and any federal or state laws which the municipal wastewater system is subject to.

This article 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

⁸Editor's note(s)—Ordinance No. 07-81, adopted Sept. 20, 2007, amended article B in its entirety to read as herein set out. Formerly, article B pertained to similar subject matter and derived from Ord. No. 94-15, adopted March 17, 1994; and Ord. No. 97-102(3), adopted Dec. 18, 1997.

provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This article shall apply all users of the municipal wastewater system as authorized by G.S. 160A-312 and/or 153A-275. The City of High Point shall designate an administrator of the publicly owned treatment works or POTW and pretreatment program hereafter referred to as the POTW director. Except as otherwise provided herein, the publicly owned treatment works (POTW) director shall administer, implement and enforce the provisions of this article. Any powers granted to or imposed upon the POTW director may be delegated by the POTW director to other City of High Point personnel.

By discharging wastewater into the City of High Point wastewater system, industrial users located outside the city limits agree to comply with the terms and conditions established in this article, as well as any permits, enforcement actions, or orders issued hereunder.

(b) *Reserved.*

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-53. Definitions and abbreviations.

(a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated:

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 Resources of the North Carolina Department of Environmental Quality or his or 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 (1) 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, association, or sole proprietorship, an authorized representative shall mean a general partner or the proprietor.

(3) If the industrial user is federal, state or local governments, or an agent thereof, 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)–(3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having

overall responsibility for environmental matters for the company, and the authorization is submitted to the city.

- (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 the City of High Point prior to or together with any reports to be signed by an authorized representative.

Best management practices or BMPs. Shall mean schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the general prohibitions listed in 40 CFR Part 403.5(a)(1). BMPs also include treatment requirements, operating procedures and practices to control plant site run-off, spillage or leaks, sludge or waste disposal, or drainage from raw-material storage.

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 degrees centigrade usually expressed as a concentration (e.g., mg/l).

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

Bypass. The intentional diversion of wastestreams from any portion of a user's treatment facility.

Categorical standards. National Categorical Pretreatment Standards or pretreatment standard.

Categorical industrial user (CIU). Industrial users that are subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N.

Control authority. Refers to the POTW organization if the POTW organization's pretreatment program approval has not been withdrawn.

Dental amalgam. Shall mean an alloy of elemental mercury and other metal(s) that is used in the practice of dentistry.

Dental discharger. Shall mean a facility where the practice of dentistry is performed, including but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by federal, state or local governments that discharges wastewater to a publicly owned treatment works (POTW).

Discharger. Any person who discharges or causes the discharge of wastewater to a community sewer system, storm water system, or directly to the POTW. Discharger shall mean the same as user.

Domestic sewage. The liquid waste from residence building drains, public rest rooms in commercial or industrial establishments, and garbage grinders, dishwashers and clothes washers which are not operated on a commercial basis.

Duly authorized representative. Shall have the same definitions as defined by "authorized representative" in subsections (1)a. and b. of that definition.

Effluent. Wastewater or other liquid, partially or completely treated, or in its natural state or any portion thereof flowing out of a reservoir, basin, treatment plant or industrial treatment plant.

Enforcement response plan (ERP). The set of enforcement actions to be taken by the city in response to violations of any part(s) of this article.

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

Existing sources. Shall mean a discharger that is not a new source.

Fats, oils and grease (FOG). Any substance such as a vegetable or animal product that is used in, or is a byproduct of, the cooking or food preparation process, and that turns or may turn viscous or solidifies with a change in temperature or other conditions.

FOG best management practices. Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of FOG to the sanitary and storm water systems.

Food service establishment. Those establishments primarily engaged in activities of preparing, serving, or otherwise making available for consumption by the public operating in a permanently constructed structure such as a room, building, or place, or portion thereof, that utilize one (1) or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, 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 a hot, non-drinkable food product in or on a receptacle that requires washing.

Garbage. Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

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 for a period of time not to exceed 15 minutes.

Grease. Includes, fats, oils, waxes or other related constituents. Grease may be of vegetable or animal origin, including butter, lard, margarine, vegetable fats and oils, and fats in meats, cereals, seeds, nuts, and certain fruits. Grease may also be of mineral origin including kerosene, lubricating oil, and road oil. Grease in the wastewater collection system is generally present as, but not need be, a floatable solid, a liquid, a colloid, an emulsion, or in a solution. Grease is extractable from an acidified sample of a waste by hexane or other designated solvent and as determined by the appropriate methods and procedures approved by the Environmental Protection Agency, and identified in 40 CFR Part 136.

Grease control device. A grease interceptor, grease trap, or other grease removal device designed, constructed and intended to remove, hold or otherwise prevent the passage of fats, oils or grease (FOG) to the sanitary sewer.

Grease generating activity. Any activity that includes the following in regards to wastewater or any FOG materials entering the sanitary sewer system by means of washing dishes, kitchen equipment, discharging FOG in a drain which leaves the property.

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.

Hot spots. Areas in sewer lines that have experienced sanitary sewer overflows or that must be cleaned or maintained at an accelerated frequency to avoid blockages of sewer system as a result from FOG buildup in the sanitary sewer system.

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

Industrial user. Any person which is a source of indirect discharge.

Interference. The inhibition, or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES, collection system or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. Section 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.

Low grease generator agreement. Refers to an agreement between certain categories of FSEs and the city that do not require the installation of a grease control device.

Maintenance log. Any form of record keeping requirements as addressed in section 8-2-54(k)(5).

Manifest. Shall mean the receipt which is retained by the generator of wastes for disposing recyclable waste, liquid or solid wastes as required by the city.

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.

Middle tier CIU. Categorical industrial user (CIU) designated by the city as middle tier if its discharge of categorical wastewater does not exceed any of the following:

- (1) 0.01 percent of the design dry weather hydraulic capacity of the POTW, or 5,000 gpd, whichever is smaller;
- (2) 0.01 percent of the design dry weather organic treatment capacity of the POTW;
- (3) 0.01 percent of the maximum allowable headworks loading for any pollutant for which approved local limits were developed by the POTW.

Mobile unit. A specialized mobile self-contained van, trailer or equipment used in providing dentistry services at multiple locations.

Monitoring facility. Structure or sampling installation for the purpose of accurately measuring the volume of flow and sampling of the wastes, the design, location and operation of which must be approved by the director.

National Categorical Pretreatment Standard or categorical standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 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 through 471.

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.

National Prohibitive Discharge Standard or prohibitive discharge standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in subsection 8-2-54(a) of this article and developed under the authority of Section 307(b) of the Act and 40 CFR, Section 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; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining

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 subsection (1)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.
 - 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.

Non-discharge permit. A permit issued by the state pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the state

Non-significant categorical industrial user (NSCIU). Categorical industrial user (CIU) designated by the city as "non-significant," never discharges more than 100 gallons per day of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the categorical pretreatment standard). A NSCIU must also:

- (1) Have consistently complied with all applicable pretreatment standards;
- (2) Annually submit a certification statement; and
- (3) Never discharge any untreated concentrated wastewater.

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, collection system, or non-discharge permit or downstream water quality standard even if not included in the permit.

Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.

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 (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).

POTW director. The City of High Point Director of Public Services or his/her delegate.

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW collection system and/or treatment plant. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment program. The program for the control of pollutants introduced into the POTW from nondomestic sources which was developed by the city in compliance with 40 CFR 403.8 and 403.11 and as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.

Pretreatment requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

Pretreatment standard. Any prohibited discharge standard, categorical standard, or local limit which applies to an industrial user.

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 city. 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 article, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, or in any other way, users of the city's POTW.

Sanitary sewer overflow. Any discharge of sewage from the sanitary sewer to the inside or outside of a FSE or to the Stormwater system.

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 or SIU. An industrial user that discharges wastewater into a publicly owned treatment works and that:

- (1) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters); or
- (2) Contributes process wastewater which makes up five (5) percent or more of the NPDES or non-discharge permitted flow limit or five (5) percent or more of the maximum allowable headworks loading of the POTW treatment plant for any POTW pollutant of concern; or
- (3) Is subject to categorical pretreatment standards under 40 CFR Part 403.6 and 40 CFR Chapter 1, Subchapter N, Parts 405-471; or
- (4) Is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any pretreatment standard or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for contributing to violations of the POTW's receiving stream standard, or for limiting the POTW's sludge disposal options.
- (5) Subject to division approval under 15A NCAC 02H .0907(b), the control authority may determine that an industrial user meeting the criteria in subsections (1) and (2) above have no reasonable potential for

adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for contributing to violations of the POTW's receiving stream standard, or for limiting the POTW's sludge disposal options, and thus is not a significant industrial user.

- (6) Subject to division approval under 15A NCAC 02H .0907(b), the control authority may determine that an industrial user meeting the criteria in subsection (3) above meets the requirements of 40 CFR Part 403.3(v)(2) and thus is not a non-significant categorical industrial user.
- (7) Subject to division approval under 15A NCAC 02H .0907(b), the control authority may determine that an industrial user meeting the criteria in paragraph (3) above meets the requirements of 40 CFR Part 403.12(e)(3) and thus is a middle tier significant industrial user. Sampling and inspection requirements may be cut in half as per 40 CFR Parts 403.8(f)(2)(v)(C) and 403.12(e)(3).

Significant noncompliance. SNC is the status of noncompliance of a significant industrial user when one (1) or more of the following criteria are met. Additionally, any industrial user that meets the criteria in subsection (3), (4), or (8) shall also be SNC.

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);
- (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numerical pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oils and grease; 1.2 for all other pollutants (except flow and pH));
- (3) Any other violation of a pretreatment standard or requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the control authority's or the POTW's, if different from the control authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(l)(vi)(B) and section 8-2-54(a) of this article to halt or prevent such a discharge;
- (5) 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.
- (6) 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.
- (7) Failure to accurately report noncompliance.
- (8) Any other violation or group of violations that the control authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.

Slug load or discharge. Any discharge at a flow rate or concentration which has a reasonable potential to cause interference or pass-through, or in any other way violates the POTW's regulations, local limits, or industrial user permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in section 8-2-54(a).

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.

Standard manhole. Shall mean a sewer inspection entrance constructed according to city standards and having a minimum horizontal diameter of four (4) feet and located on the building sewer downstream from any pretreatment works.

Stormwater. Any flow occurring during or following any form of natural precipitation and resulting there from.

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.

Trap means any facility designed, constructed and operated for the purpose of removing and retaining dangerous, deleterious or prohibited constituents from wastewater by differential gravity separation before discharge to the public sewer.

Twenty-five percent rule shall mean the requirement for grease control devices to be maintained such that the combined FOG and solids accumulation does not exceed 25 percent of the design hydraulic depth in any location of the grease control device. This is to ensure that the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG discharged to the sewer system.

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 stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Wastewater permit. As set forth in subsection 8-2-56(b) of this article.

Waters of the state. All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

This article is gender neutral and the masculine gender shall include the feminine and vice versa.

"Shall" is mandatory; "may" is permissive or discretionary.

The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

The following abbreviations shall have the designated meanings:

- (1) *BOD.* Biochemical oxygen demand.
- (2) *CFR.* Code of Federal Regulations.
- (3) *COD.* Chemical oxygen demand.
- (4) *EPA.* Environmental Protection Agency.
- (5) *gpd.* Gallons per day.
- (6) *l.* Liter.
- (7) *mg.* Milligrams.

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- (8) *mg/l.* Milligrams per liter.
 - (9) *NCGS.* North Carolina General Statutes.
 - (10) *NPDES.* National Pollution Discharge Elimination System.
 - (11) *O&M.* Operation and maintenance.
 - (12) *POTW.* Publicly owned treatment works.
 - (13) *SIC.* Standard industrial classification.
 - (14) *SWDA.* Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.
 - (15) *USC.* United States Code.
 - (16) *SIU.* Significant industrial user.
 - (17) *TSS.* Total suspended solids.
 - (18) *TKN.* Total kjeldahl nitrogen.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12; Ord. No. 7609/20-25, 5-18-20)

Sec. 8-2-54. Regulations.

(a) *Prohibited discharge standards.*

- (1) *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.
- (2) *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
 - a. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Included in this prohibition are wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius), using the test methods specified in 40 CFR 261.21. At no time, shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five (5) percent nor any single reading over 10 percent of the lower explosive limit (LEL) of the meter.
 - b. Solid or viscous substances in amounts which will cause interference with the flow in a sewer but in no case solids greater than one-half (½) inch in any dimension.
 - c. Any wastes or water containing mineral or, hydrocarbon, vegetable or animal fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l, or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit. Animal and vegetable fats above these units may be allowed following written application and approval by the director.
 - d. Any wastewater having a pH less than 5.0 or more than 11.0 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

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- e. Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, etc.), in sufficient quantity (flow or concentration), either singly or by interaction with other pollutants, to pass through or interfere with the POTW wastewater treatment system, any wastewater treatment or sludge process, or constitute a hazard to humans or animals.
 - f. 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.
 - g. 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.
 - h. Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetables tanning solutions, which consequently imparts color to the treatment plants effluent thereby violating the POTW's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than 10 percent from the seasonably established norm for aquatic life.
 - i. Any wastewater having a temperature greater than 150 degrees Fahrenheit (66 degrees Celsius), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with the temperature at the introduction into the POTW to exceed 104 degrees Fahrenheit (40 degrees Celsius).
 - j. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW director in compliance with applicable state or federal regulations.
 - k. Any pollutants which result in the presence of toxic gases, vapors or fumes within the system in a quantity that may cause worker health and safety problems.
 - l. Any trucked or hauled pollutants, except at discharge points designated by the POTW director in accordance with section 8-2-65 of this article.
 - m. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW director.
 - n. Any industrial wastes containing floatable fats, waxes, grease or oils, or which become floatable at the wastewater temperature at the introduction to the treatment plant during the winter season, but in no case, industrial wastewater containing more than 100 mg/l of emulsified oil or grease unless authorized by the POTW director.
 - o. Petroleum oil, non-biodegradable cutting oils, commonly called soluble oils, which form a persistent water emulsion, and non-biodegradable complex carbon compounds in amounts that will cause interference or pass through.
 - p. Any sludges, screenings or other residues from the pretreatment of industrial wastes.
 - q. Any medical wastes, except as specifically authorized by the POTW director in an industrial wastewater discharge permit.
 - r. Any material containing ammonia, ammonium salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.

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- s. Any material identified as hazardous waste according to 40 CFR Part 261 except as may be specifically authorized by the POTW director.
 - t. Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B.0200.
 - u. Recognizable portions of the human or animal anatomy.
 - v. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.

Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that these wastes 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 connection with the system.

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 director shall:

- (1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with subsections 8-2-54(a) and (b);
 - (2) Take appropriate actions in accordance with section 8-2-60 for such user to protect the POTW from interference or pass through.
- (b) *Polluted water control.* All polluted water from homes, commercial establishments and manufacturing plants, whether such water is obtained from the city or not, when polluted by its use, shall be forced into the city's sanitary sewer system provided such wastes meet the requirements of this chapter.
- (c) *Use of public sewers required.*
- (1) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of said city, any human or animal excrement, garbage or other objectionable waste.
 - (2) It shall be unlawful to discharge to any natural outlet within the city or in any area under its jurisdiction, any sewage or other polluting materials, except where suitable treatment has been provided in accordance with applicable local, state and federal laws, ordinances and policies. In the event such polluting material is discharged, whether accidental or otherwise, it shall be the responsibility of the person causing the discharge. Where an objectionable or offending condition shall exist, as determined by the director, the person causing the discharge will immediately take corrective measures to remove or otherwise eliminate the offending condition in a manner approved by the director. In any unusual circumstances where an imminent threat to the health and safety of the public may deem to exist, or where corrective measures are not taken promptly by the person causing the offending condition, the director may then take such steps as he determines necessary to remove the polluting materials and eliminate the offending condition with such costs to be borne by the person causing such condition.
- (d) *National Categorical Pretreatment Standards.*
- (1) Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405 through 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 CFR 403.6(c).

- 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 CFR 403.6(e).
 - c. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
 - d. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
 - e. A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.7.
- (e) *Local limits.* To implement the general and specific discharge prohibitions listed in this article, industrial user-specific local limits will be developed ensuring that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern for each industrial user. Where specific local limits are not contained for a given parameter or pollutant in an industrial user permit, the following limits will apply to all users:

Parameter	Limit (mg/l)
BOD	300
TSS	200
Ammonia	15
Cadmium (T)	0.005
Chromium (T)	0.050
Copper (T)	0.050
Cyanide (T)	0.010
Lead (T)	0.050
Mercury (T)	0.0005
Nickel (T)	0.050
Silver (T)	0.005
Zinc (T)	0.10
Oil and grease	100
Total Phosphorus	5.0
pH range: Between 5.0 and 11.0 (standard units)	

(T) = Total

Industrial user-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and are considered pretreatment standards.

- (f) *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 article.
- (g) *Right of revision.* The city reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulations if deemed necessary to comply with the objectives presented in section 8-2-52 of this article or the general and specific prohibitions in section 8-2-54 of this article, as is allowed by 40 CFR 403.4.
- (h) *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 city or state.
- (i) *Pretreatment of wastewater.*
 - (1) *Pretreatment facilities.* Users shall provide necessary wastewater treatment as required to comply with this article and wastewater permits issued under subsection 8-2-56(b) of this article and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in section 8-2-54(a) within the time limitations as specified by the EPA, the state, or the POTW director, whichever is more stringent. Any facilities required to pre-treat wastewater to a level acceptable to the city 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 city for review, and shall be acceptable to the POTW director before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this article. Any subsequent changes in the pretreatment facilities or method(s) of operation shall be reported to and be approved by the POTW director prior to the user's initiation of the changes.
 - (2) *Additional pretreatment measures.*
 - a. 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 article.
 - b. 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-controlled facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (j) *Grease control devices shall be installed on the premises where FOG is used or generated.*
 - (1) All commercial kitchens in new or existing buildings, undergoing significant improvement, undergoing remodeling or change in operations shall have grease control devices (GCD) as required by the Uniform Plumbing Code. If there is a size discrepancy in GCD installation (due to space limitations, etc.) a mutual agreement between the building department and industrial pretreatment department shall agree to compromise regarding size and fixtures to be discharged through the GCD.
 - (2) All grease generating fixtures shall connect to a GCD, including but not limited to pre-rinse sinks, three-compartment sinks, two-compartment sinks, mop or janitor sinks, food preparation sinks, floor drains in dishwashing areas and kitchens, etc. All drainage fixtures in dishwashing room except for dishwashers shall connect to a GCD.

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- (3) No high temperature kitchen equipment discharges shall be allowed to connect through any type of GCD. Discharge of wastewater from dishwashers, pasta cookers, other hot lines and non-grease generating fixtures to any GCD is prohibited unless authorized by the POTW director.
 - (4) FSEs shall have a sink or other area for cleaning floor mats, containers, exhaust hood filters and equipment, which is connected to a GCD. The sink or cleaning area shall be large enough to clean the largest mat or piece of equipment to be cleaned. Outside washing of floor mats, equipment grills, or other containers is prohibited; this may allow contaminated wastewater to flow to the storm drain system.
 - (5) All in-ground GCDs greater than 750 gallons in capacity shall have a minimum of three (3) manholes (refer to City of High Point Design Standards) to allow visibility over each inlet piping, baffle (divider) piping and outlet piping to ensure accessibility for inspection, cleaning and removal of all contents. Two (2) manholes may be allowed under certain conditions only granted by the city of High Point. Nothing shall be allowed to be stored on top of any GCD manholes.
 - (6) In ground GCDs shall be installed in a suitable location that will allow access for inspection, cleaning, and maintenance. This includes drive-thru roads and parking stalls where inspection would be difficult or unsafe and impeded business operations.
 - (7) Laterals installed between a FSE and GCD, also between the GCD and the city's main shall include installation of two-way clean outs as required to allow access points for sewer line maintenance and inspection.
- (k) *Grease, oil and sand traps required for commercial and industrial establishments.*
- (1) Grease, oil and sand traps shall be provided when, in the opinion of the city, they are necessary for the protection of sewerage system from liquid wastes containing petroleum based oils, fluids and greases in excessive amounts, or any flammable wastes, sand and other harmful pollutants not prohibited in section 8-2-54(a). Such traps shall not be required for buildings used solely for residential purposes. Such traps shall be required, for example, on discharges from all service stations, automotive repair garages, car washes, and other commercial or industrial establishments as the city may designate.
 - (2) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
 - (3) Grease control device maintenance requirements.
 - a. All GCDs shall be kept in good repair, functioning properly and shall be maintained in continuous operation according to manufacturer's guidelines and the City of High Point's requirements.
 - b. GCDs shall be maintained by the owner at the owner's expense.
 - c. Sewer lines to and from GCDs shall be kept in good repair and clear of any buildup of FOG that could potentially contribute to backups and/or SSOs.
 - d. All FOG discharged during GCD or sewer line cleaning and maintenance shall be captured. Any FSE that has their kitchen grease waste lines, exit lines from a GCD and/or laterals cleaned by jetting or hydro flushing shall have the contractor capture the contents removed from the line to prevent SSOs depending on the main size the lateral feeds into. All contents removed from sewer lines shall be contained and disposed properly by a licensed contractor.
 - e. No additives may be introduced to GCDs or a FSE's wastewater system for the purpose of emulsifying FOG. Additives, such as solvents or enzymes that dissolve or mobilize FOG are prohibited.
 - (4) GCD maintenance frequency.

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- a. The maintenance frequency shall be set so as to ensure the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG and minimize the passage of FOG to the sanitary sewer collection system. The maintenance frequency for all FSEs with a GCD shall be determined by one (1) of the following methods:
 1. GCDs shall be fully pumped out and cleaned at a frequency such that the combined FOG and solids accumulation does not exceed 25 percent of the total design hydraulic depth in any location of the GCD. The 25 percent rule shall apply to all GCDs.
 2. The entire contents of all grease interceptors (gravity grease interceptors) and GCDs greater than 100 gallons shall be removed every three (3) months or more frequently as to prevent FOG from entering the sanitary sewer.
 3. The entire contents of all grease traps (hydro mechanical grease interceptors and automatically or mechanically cleaning GCDs) shall be removed every month or more frequently as to prevent FOG from entering the sanitary sewer.
 - b. The city may modify the maintenance frequency at any time to reflect changes in actual operating conditions. Based on the actual generation of FOG from the FSE, the maintenance frequency may increase or decrease.
 - c. If the GCD, at any time, contains FOG and solids accumulation that does not meet the requirements in this section, the FSE shall have the GCD serviced immediately such that all FOG, solids, and other materials are completely removed from the GCD.
 - d. Waste haulers servicing GCDs shall not reinsert or discharge into GCD, manhole, cleanout, or other sanitary sewer appurtenance any materials that the waste hauler has removed from the GCD or to cause those materials to be so handled.

(5) Requirements for record keeping.

- a. GCD and plumbing record keeping.
 1. The FSE shall retain all manifests, receipts and invoices of all cleaning, maintenance, grease removal of/from the GCD, disposal carrier and disposal site location for at least three (3) years. Such records, which include at a minimum of the following, shall be made immediately available for inspection and copying to the inspector or city representative upon request:
 2. A logbook of grease interceptor, grease trap or grease control device cleaning and maintenance practices.
 3. Copies of records of waste hauling GCD contents. The grease haulers shall leave, at the facility site, a manifest with the following information:
 - Name of site pumped.
 - Street address.
 - City name.
 - Date and time pumped.
 - Volume collected.
 - Hauler name.
 - Truck number.
 - Observed GCD structural problems.

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- Final destination of material collected.
4. Records of sampling data and sludge height monitoring for FOG and solids accumulation in the GCDs.
 5. Records of any SSOs, backups, spills and/or cleaning of the lateral sewer system.
 6. A record of best management practices being implemented including employee training.
 7. Any other information deemed appropriate by the city to ensure and document compliance with this article.
- (6) Tallow bins.
- a. Segregation and collection of waste cooking oil. No person shall dispose of any grease, or cause any grease to be disposed, by discharge into any drainage piping, by discharge into any public or private sanitary sewer, by discharge into any storm drainage system, or by discharge to any land, street, public way, river, stream or other waterway. All waste cooking oils shall be collected and stored properly in tallow receptacles such as barrels or drums or bins for recycling or other acceptable methods of disposal.
 1. Segregated waste grease and oil bins (tallow bins) shall be in place at the location of any FSE that creates grease or oil from the use of fryers, automatically or mechanically cleaning GCDs which need FSE staff maintenance, rotisserie drip lines not connected to a GCD or any other type of grease and oil waste created by cooking or cleaning of equipment. FSE staff, not limited to kitchen staff, shall properly dispose of grease or oils from cooking equipment into an oil/grease receptacle such as a tallow bin, barrel or drum. Appropriate measures shall be taken to eliminate spills. An absorption rag, towel, or material shall be immediately available each time the waste oil/grease is emptied to the tallow bin or segregated receptacle and used to clean up spills. The transporting of waste oil/grease shall be conducted with a covered and sealed container.
 2. Tallow bins or used waste oil and grease container areas shall be kept clean. Containers shall be covered with lids and free from excessive fats, oil and grease and debris to prevent foul-smelling odors and vector attraction. Housekeeping procedures shall be put in place and signs posted.
 3. Tallow bins shall be located in areas that reduce the risk of spills or discharges to the storm drain system. Where relocation is not possible, spill prevention should be implemented to prevent such discharges.
- (7) Tallow haulers. Tallow haulers servicing FSEs shall clean up all spills created during the collection and transporting of grease whether it is on the containers, bins, barrels or the ground.
- (8) Tallow bin record keeping. The FSE shall keep all manifests, receipts and invoices of all oil/grease removal from the FSE, disposal carrier and disposal site location for no less than three (3) years. The FSE shall, upon request, make the manifests, receipts and invoices available to any city representative or inspector. These records may include:
- a. A logbook of all segregated oil bins cleaning and maintenance practices.
 - b. A record of best management practices being implemented including employee training.
 - c. Copies of records and manifests of waste hauling activities.
 - d. Records of any spills and/or cleaning.
 - e. Any other information deemed appropriate by the city to ensure compliance with this article.

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- (9) Best management practices—FSEs. All FSEs shall implement best management practices (BMPs). Emphasis shall be on minimizing the discharge of FOG to the sewer system and preventing non-stormwater discharges to the storm drain system. All FSEs shall be required, at a minimum, to provide staff training for the appropriate ordinance requirements and for the following kitchen BMPs:
- a. Install screens in all drains. The screens shall be installed to all sinks, drains, floor drains, floor sinks, dishwasher, etc. The screens shall be cleaned frequently by disposing waste to the trash or food scrap container if available. Regular inspections shall be conducted by lead managers and/or executive chefs to ensure screens are functioning properly and are present. It is recommended that the inspections be documented to confirm compliance and be available to the city representative or inspector upon request.
 - b. Dispose of all food waste. Food waste shall not be disposed to sinks or drains. FSE staff shall dispose of all food waste directly into the trash, garbage, compost or food waste collection bins by scraping with scrapers, towels, paper towels and/or rubber spatulas prior to using water to rinse off plates, dishes, pots, pans, containers, etc. This practice helps remove FOG from entering the sanitary sewer system and GCDs. Properly dispose of food waste and solids in enclosed plastic bags prior to disposal in trash bins or containers to prevent leaking and odors.
 - c. Maintain kitchen exhaust hood and equipment. Filters and other exhaust hood equipment shall be cleaned as frequently as necessary to maintain good operating condition. The wastewater generated from cleaning the exhaust filter shall be disposed properly and shall be cleaned in sinks connected to a GCD to ensure to capture of FOG prior to entering the sanitary sewer.
 - d. Post signs and posters for best management and waste minimization practices conspicuously in the food preparation and dishwashing areas at all times.
 - e. Clean all kitchen equipment and other equipment in the sinks or drains that flow directly into a GCD. Never clean equipment in a sink not connected to a GCD.
 - f. Dry methods shall be used to clean up oil and grease spills. Pick up liquids or grease with rags or absorbents such as raw [saw] dust or cat litter. Sweep up absorbent, seal in a plastic bag and dispose in the trash. Regularly use dry methods to clean under fryer baskets and other locations where grease may be spilled or dripped. Clean up all oil and grease spills prior to mopping. If possible, always discharge waste mop water to a drain that will flow to a GCD.
 - g. Dry sweep pavement, such as walkways, dining areas and dumpster areas as frequently as possible.
 - h. Never pour, sweep or direct wash wastewater into a stormwater collection system, street or gutter. If any pavement cleaning requires water, sweep first; next use a mop without soap and bucket and dispose of wash wastewater in a sink that drains to a GCD.
 - i. Never wash down dumpsters or tallow bins with a hose. If a dumpster or tallow bin must be cleaned, contact the dumpster or tallow bin vendor. Check dumpsters and tallow bins frequently for leaks. Notify the dumpster or tallow bin vendor to maintain and replace leaking dumpsters or tallow bins.
- (l) *Accidental discharge /slug control plans.* 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 section 8-2-53(a). All SIUs must be evaluated within one (1) 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.

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- (1) 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 subsections 8-2-57(f) and (g).
- (2) An accidental discharge/slug control plan shall address, at a minimum, the following:
- a. Description of discharge practices, including non-routine batch discharges;
 - b. Description of stored chemicals;
 - c. Procedures for immediately notifying the POTW director of any accidental or slug discharge, as required by subsection 8-2-57(g) of this article; and
 - d. 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.
 - e. Flow and loading equalization. In order to promote the equalization of flows and any constituent loadings, including but not limited to BOD and TSS on the sewer system, each person whose operations produce wastewaters having widely fluctuating flows or constituents is required to install and maintain at his own expense, a suitable storage or holding tank. The holding tank shall have a minimum capacity of 75 percent of the user's average daily flow, except that no tank shall be less than 1,000 gallons. Suitable air mixing will be required to keep solids in suspension and maintain aerobic conditions. Such holding or storage tank, air mixing system and any outlet device controlling the discharge of wastes to the sanitary sewer shall be approved by the director.
 - f. Monitoring facilities.
 1. To facilitate observations, flow measurements and sampling of liquid wastes discharged to the city's sanitary sewer, any person who discharges or proposes to discharge liquid wastes into the city's sanitary sewer shall construct a suitable monitoring facility, located on the building sewer and downstream from any pretreatment works, provided:
 - (a) The BOD concentration exceeds 300 mg/l;
 - (b) The TSS concentration exceeds 250 mg/l;
 - (c) The average flow per work day exceeds 25,000 gallons; or
 - (d) The manufacturing processes produce toxic or poisonous wastes such as but not limited to cyanides, heavy metals, insecticides, herbicides, etc.
 2. All industrial users that are subject to categorical pretreatment standards will also be required to provide and operate, at the user's own expense, monitoring facilities for flow measurement and any sampling required by the director or the categorical pretreatment standards. Plans for the location and construction of the monitoring facilities shall be approved by the director prior to commencing the installation.
- (m) *Dental facilities.* As promulgated by the Environmental Protection Agency, and as incorporated below, dental facilities that use or remove amalgam must install, operate and maintain, at user's expense, one (1) or more amalgam separators that meet established standards and record keeping requirements listed under 40 CFR Part 441.
- (1) Amalgam separators required.

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- a. Dental facilities that use or remove amalgam must install, operate and maintain at user's expense, one (1) or more amalgam separators or amalgam removal device(s) that meet the following requirements:
 - 1. Compliant with American National Standards Institute (ANSI) American National Standard/American Dental Association (ADA) Specification 108 for Amalgam Separators (2009) with Technical Addendum (2011); or
 - 2. Compliant with the International Organization for Standardization (ISO) 11143 Standard (2008) or subsequent versions if the separators achieve at least a 95 percent removal efficiency.
 - 3. Amalgam removal device, other than an amalgam separator shall have a removal efficiency of at least 95 percent from all amalgam process wastewater. Removal efficiency and performance testing information is outlined in 40 CFR Part 441.30(a)(2)(i) through (viii).
 - (2) Implementation of the following best management practices (BMPs):
 - a. Waste amalgam including, but not limited to, dental amalgam from chairside traps, screens, vacuum pump filters, dental tools, cuspidors, or collection devices, must not be discharged to a POTW.
 - b. Dental unit water lines, chair-side traps, and vacuum lines that discharge amalgam process wastewater to a POTW must not be cleaned with an oxidizing or acidic cleaners, including but not limited to bleach, chlorine, iodine and peroxide that have a pH lower than six (6) or greater than eight (8).
 - (3) Dental dischargers that meet any of the criteria below are exempt from this subsection:
 - a. Dental dischargers that exclusively practice one (1) or more of the following specialties are exempt from these requirements:
 - 1. Oral pathology.
 - 2. Oral and maxillofacial radiology.
 - 3. Oral and maxillofacial surgery.
 - 4. Orthodontics.
 - 5. Periodontics.
 - 6. Prosthodontics.
 - b. Mobile unit operated by a dental discharger.
 - c. Dental dischargers that do not discharge any amalgam process wastewater to a POTW because amalgam process wastewater is collected and transferred to a centralized waste treatment facility as defined in 40 CFR Part 437.
 - d. Dental dischargers that do not place dental amalgam, and do not remove amalgam except in limited emergency or unplanned, unanticipated circumstances, and that certify to such to the control authority as required in subsection (m)(4)a.2.ii.
 - (4) Reporting and recordkeeping requirements.
 - a. Dental dischargers subject to this part must comply with the following reporting requirements:
 - 1. One-time compliance report.

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- i. A one-time compliance report must be submitted to the control authority no later than 90 days following introduction of wastewater into a POTW.
2. Signature and certification.
- i. The one-time compliance report must be signed and certified by a responsible corporate officer, a general partner or proprietor if the dental discharger is a partnership or sole proprietorship, or a duly authorized representative in accordance with the requirements of sections 8-2-53(a) and 8-2-56(b)(3).
 - ii. The one-time compliance report for dental dischargers subject to this part that do not place or remove dental amalgam as described in subsections (m)(3)a.–d. and must include the following:
 - (a) Facility name.
 - (b) Physical address.
 - (c) Mailing address.
 - (d) Contact information.
 - (e) Name of the operator(s) and owner(s).
 - (f) Certification statement that the dental discharger does not place dental amalgam and does not remove amalgam except in limited circumstances.
 - iii. The one-time compliance report for dental dischargers subject to the standards of this subsection must include the following information:
 - (a) The facility name.
 - (b) Physical address.
 - (c) Mailing address.
 - (d) Contact information.
 - (e) Name(s) of the operator(s) and owner(s).
 - (f) A description of the operation at the dental facility including:
 - (1) The total number of chairs.
 - (2) The total number of chairs at which dental amalgam may be present in the resulting wastewater.
 - (3) A description of any existing amalgam separator(s) or equivalent device(s) currently operated to include at a minimum, the make, model and year of installation.
 - (g) Certification that the amalgam separator(s) or equivalent device is designed and will be operated and maintained to meet the requirements specified in subsections (m)(1)a.1. and 2. or (m)(4).
 - (h) Certification that the dental discharger is implementing BMPs specified in subsections (m)(2) or (m)(4) and will continue to do so.
 - (i) The name of the third-party service provider that maintains the amalgam separator(s) or equivalent device(s) operated at the dental office, if applicable. Otherwise, a brief description of the practices employed by

the facility to ensure proper operation and maintenance in accordance with subsections (m)(1)a.1. and 2. or (m)(4).

- iv. Transfer of ownership notification.
 - (a) If a dental discharger transfers ownership of the facility, the new owner must submit a new one-time compliance report to the control authority no later than 90 days after the transfer.
- v. Retention period.
 - (a) If a dental discharger subject to this subsection is in operation, or until ownership is transferred, the dental discharger or an agent or representative of the dental discharger must maintain the one-time compliance report required by subsection (m)(4)a.1. and make it available for inspection in either physical or electronic form.
 - (b) Dental dischargers or an agent or representative of the dental discharger must maintain and make available for inspection in either physical or electronic form, for a minimum of three (3) years:
 - (1) Documentation of the date, person(s) conducting the inspection, and results of each inspection of the amalgam separator(s) or equivalent device(s), and a summary of follow-up actions if needed.
 - (2) Documentation of amalgam retaining container or equivalent container replacement (including date as applicable).
 - (3) Documentation of all dates that collected amalgam is picked up or shipped for proper disposal in accordance with 40 CFR 261.5(g)(3), and the name of the permitted or licensed treatment, storage or disposal facility receiving the amalgam retaining containers.
 - (4) Documentation of any repair or replacement of an amalgam separator or equivalent device, including the date, person(s) making the repair or replacement and a description of the repair or replacement (including make and model).
 - (5) Dischargers or an agent or representative of the dental discharger must maintain and make available for inspection in either physical or electronic form, the manufacturer's operating manual for the current device.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12; Ord. No. 7609/20-25 , 5-18-20)

Sec. 8-2-55. Fees.

- (a) *Purpose.* It is the purpose of this section to provide for the recovery of costs from users of the city's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be as set forth in the city's schedule of charges and fees.
- (b) *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.
 - (1) The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW.

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- (2) Each user shall pay its proportionate cost based on volume of flow.
 - (3) The city manager 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 city council for adjustments in the schedule of charges and fees as necessary.
 - (4) 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.
 - (5) For the purpose of defraying a portion of the expense of maintaining and operating the public sewer system, there shall be a sewer service charge levied and collected monthly in respect to all property in which there is a sewer connection with the public sewer system. The rate for water and/or sewer service is set forth by a rate schedule adopted by city council. The occupants of the premises shall be liable for the payment thereof as in case of the water charge. Such charge shall be added to each water bill monthly and shall be payable at the time that the water bill is payable. The penalty for failure to pay such charge shall be the same as in case of failure to pay the water bill.
 - (6) Water used for watering lawns, manufacture of ice, mixing concrete and other uses in which no portion is returned to the sanitary sewer system may be metered separately. A sanitary sewer service charge will not be billed on water used in these types of operations provided meters are installed by the city at the expense of the owner to measure only the water not required to be returned to the sanitary sewer or the director of public services may determine actual quantity of water used for bulk uses and cost of labor and materials for billing purposes.
 - (7) Where a well is used by any person and water from such well is put into the sanitary sewer system of the city, then such person shall install, at his own expense, the necessary meter or meters, obtained from the city, to register the amount of water used from such well which goes into the sanitary sewer system and the sewer service charge thereon shall be the same as the herein above given. This installation will be required if it is determined by the director of public services to be in the best interest of the city.
 - (8) In cases where the city determines not to require the installation of a meter, a flat rate shall be applied, as outlined in a rate schedule adopted by city council. These rates may apply where the water consumption of the residence or other approved user is generally no more than that of a one-family residence. The director of public services shall determine whether the customer will be on the minimum or higher flat rate or whether a meter is to be installed to determine the sewer service charge and he shall set the amount of the charge based on estimated consumption. Metering may be required where water is used for industrial purposes or where monthly or yearly discharge of waste water to the sanitary sewer system fluctuates over a wide range. A flat rate shall not be used where the water supply is from a state approved public water supply.

- (c) *Surcharges.* All industrial users of the POTW are subject to industrial waste surcharges on discharges which exceed the following levels:

BOD = 250 mg/l

TSS = 200 mg/l

The amount of surcharge will be based upon the mass emission rate (in pounds per day) discharged above the levels listed above. The amount charged per pound of excess will be set forth in the schedule of charges and fees.

- (1) In order that all sewer users bear their equitable share of costs for the collection and treatment of sewage, a monthly surcharge shall be imposed where the concentration of BOD or TSS exceeds the limits as hereinbefore prescribed. The amount of the monthly surcharge will be determined by

calculating the excess BOD and TSS concentration above the permissible limits of 250 mg/l BOD, and 200 mg/l TSS, according to the following formulate:

- a. The number of hundreds of pounds of constituent (BOD or TSS) subject to the surcharge will be determined by:

P =	$\frac{U \times C \times 0.006238}{100}$
	100

where:

P = pounds of constituent (BOD or TSS) in hundreds

U = units of wastewater discharged (1 unit = 100 cu. ft.)

C = strength of constituent in wastewater in mg/l in excess of 250 for BOD, or 200 for TSS

0.006238 = weight of wastewater (million pounds per unit)

- b. The amount of the surcharge will be calculated by:

$$S = (R1 \times P1) + (R2 \times P2)$$

where:

S = total surcharge

R1 = surcharge rate per CWT BOD

R2 = surcharge rate per CWT TSS

P1 = pounds of BOD in hundreds

P2 = pounds of TSS in hundreds

R1 and R2 are determined by a system of user charges and are set forth in a rate schedule adopted by city council.

- (2) The city council, in a meeting with the city manager and the director, will annually review the actual cost of operation and maintenance of the pollution control plants and adjust the surcharge rate to reflect the true cost of constituent treatment.
- (3) The volume of flow used in calculating the amount of surcharge will be based upon the metered water consumption as shown in the records of meter readings maintained by the city. Where satisfactory evidence can be produced that more than 10 percent of the total annual volume of water consumed does not return to the public sewer, such water may be metered separately, subject to the approval of the director, and excluded from the surcharge computation.

- (d) *Pretreatment program administration charges.* The schedule of charges and fees adopted by the city may include charges and fees for:

- (1) Reimbursement of costs of setting up and operating the pretreatment program;
- (2) Monitoring, inspections and surveillance procedures;
- (3) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (4) Permitting;

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

(e) *Sampling and testing procedures.*

- (1) Each person discharging liquid wastes into the public sewer shall be subject to periodic inspections to determine the character and concentration of such wastes. The frequency of sampling shall be as determined by the director. Sampling and inspections will be both scheduled and unscheduled.
- (2) Samples from monitoring facilities may be grab and/or composite according to flow. All other sampling will be conducted in a manner prescribed by the director.
- (3) Each person subject to sampling and analytical services will be charged the cost of such services. All costs incident to the supervision, inspection, sampling and analyses will be billed to the user in accordance with a fee schedule adopted by city council. The city council, in a meeting with the city manager and the director, will annually review the actual cost of supervision, inspection, sampling and analyses required for monitoring industrial discharges and adjust fees to reflect the true cost of the pretreatment program. Any analyses performed by contract laboratory services on behalf of the city will be billed directly to the user by the contract laboratory.
- (4) The city, upon request by the industry concerned, shall make available a split sample collected. Split samples with a POTW sample cannot be used for the industry's monthly compliance sample. If the industry feels the results are not representative of their wastes, the city will resample at a cost in accordance with the fee schedule referred to in subsection 8-2-55(b)(3). The values determined from any re-sampling shall be used for future billings (or until the results of the next sampling are made) but will not be retroactive for any prior billing.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12; Ord. No. 7609/20-25, 5-18-20)

Sec. 8-2-56. Administration.

- (a) *Wastewater dischargers.* It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the city. 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.
- (b) *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 contribution permit for non-significant industrial users.
 - (1) *Significant industrial user determination.* All persons proposing to discharge nondomestic wastewater, or proposing to change the volume or characteristics of an existing discharge of nondomestic 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 will require that a significant industrial user permit application be filed.
 - (2) *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the city, 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 subsection 8-2-56(b) above. The application shall include at a minimum:

- a. Name of industrial user;
- b. Address of industrial user;
- c. Standard industrial classification (SIC) code(s) or expected classification and industrial user category;
- d. Wastewater flow;
- e. Types and concentrations (or mass) of pollutants contained in the discharge;
- f. Major products manufactured or services supplied;
- g. Description of existing on-site pretreatment facilities and practices;
- h. Locations of discharge points;
- i. Raw materials used or stored at the site;
- j. Flow diagram or sewer map for the industrial user;
- k. Number of employees;
- l. Operation and production schedules; and
- m. description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).

- (3) *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 POTW director as defined in subsection 8-2-53(a) 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."

- (4) *Application review and evaluation.*

- a. The POTW director is authorized to accept applications for the city and shall refer all applications to the POTW staff for review and evaluation.
- b. 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.

- (5) *Tentative determination and draft permit.*

- a. The POTW staff shall conduct a review of the application and 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.
- b. If the staff's tentative determination in subsection (5)a. above is to issue the permit, the following additional determinations shall be made in writing:
 1. Proposed discharge limitations for those pollutants proposed to be limited;

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2. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
 3. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
 - c. The staff shall organize the determinations made pursuant to subsections (5)a. and b. above and the city's general permit conditions into a significant industrial user permit.
- (6) *Permit supporting documentation.* The control authority staff shall prepare the following documents for all significant industrial user permits:
- a. An allocation table (AT) listing permit information for all significant industrial users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.
 - b. The basis, or rationale, for the pretreatment limitations, including the following:
 1. Documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
 2. Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).
- (7) *Final action on significant industrial user permit applications.*
- a. The POTW director shall take final action on all applications not later than 90 days following receipt of a complete application.
 - b. The director is authorized to:
 1. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this article and G.S. 143-215.1;
 2. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
 3. Modify any permit upon not less than 60 days' notice and pursuant to subsection 8-2-56(i) of this article;
 4. Revoke any permit pursuant to subsection 8-2-60(a) of this article;
 5. Suspend a permit pursuant to subsection 8-2-60(a) of this article;
 6. Deny a permit application when in the opinion of POTW director such discharge may cause or contribute to pass through or an upset of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.
- (8) *Permit modification.* 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 (4) months.
 - c. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

- d. Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater contribution permit as required by subsection 8-2-56(b)(2) the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard.
- e. 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.

(9) *Permit conditions.*

- a. The POTW director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this article and G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
 - 1. A statement of duration (in no case more than five (5) years);
 - 2. A statement of non-transferability;
 - 3. Applicable effluent limits based on categorical standards or local limits or both;
 - 4. 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;
 - 5. Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in subsection 8-2-53(a);
 - 6. Requirements to implement a plan or other controls for prevention of accidental discharges and/or slug loads as defined in subsection 8-2-53(a), if determined by the POTW director to be necessary for the user;
 - 7. 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 subsection 8-2-53(a). Also see subsections 8-2-57(d) and 8-2-54(e); and
 - 8. A statement of applicable civil ~~and/or criminal~~ penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- b. In addition, permits may contain, but are not limited to, the following:
 - 1. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
 - 2. Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 - 3. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - 4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
 - 5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.

Commented [TNE27]: Deleted to avoid confusion about the director having to state in the permit what criminal penalties apply since this is not a criminalized section.

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6. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 7. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
 8. Requirements for immediate reporting of any instance of noncompliance and for automatic re-sampling and reporting within 30 days where self-monitoring indicates a violation(s).
 9. Compliance schedules for meeting pretreatment standards and requirements.
 10. Requirements for submission of periodic self-monitoring or special notification reports.
 11. Requirements for maintaining and retaining plans records relating to wastewater discharges as specified in subsection 8-2-57(l) and affording the POTW director, or his representatives, access thereto.
 12. 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.
 13. 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.
 14. A statement that compliance with 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.
 15. Other conditions as deemed appropriate by the director to ensure compliance with this article, and state and federal laws, rules, regulations, and the term of the permit.
- (10) *Permit duration.* Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.
- (11) *Permit transfer.* Industrial wastewater discharge permits are issued to a specific user for a specific operation. An industrial 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.
- (12) *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with subsection 8-2-56(b) minimum of 180 days prior to the expiration of the existing permit.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-57. Reporting requirements.

(a) *Baseline monitoring reports.*

- (1) Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW director a report which contains the information listed in subsection (2) 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.
- (2) Users described above shall submit the information set forth below:

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- a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
 - c. *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.
 - d. *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 wastestream formula set out in 40 CFR 403.6(e).
 - e. *Measurement of pollutants.*
 - 1. The categorical pretreatment standards applicable to each regulated process.
 - 2. 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, shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection 8-2-57(j) of this article and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
 - 3. When determining mass calculations, standard pretreatment conversion factors shall be used.
 - 4. Sampling must be performed in accordance with procedures set out in subsection 8-2-57(k) of this article and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
 - f. *Certification.* A statement, reviewed by the user's current authorized representative as defined in subsection 8-2-53(a)(1) 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.
 - g. *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 subsection 8-2-57(b) of this article.
 - h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with subsection 8-2-56(b)(3) of this article.
- (b) *Compliance schedule progress reports.* The following conditions shall apply to the compliance schedule required by subsection 8-2-57(a)(2)g. of this article:
- (1) 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. These 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;
 - (2) No increment referred to above shall exceed nine (9) months;

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- (3) 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
- (4) In no event shall more than nine (9) months elapse between such progress reports to the POTW director.
- (c) *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 subsection 8-2-57(a)(2)d.—f. of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measures of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection 8-2-56(b)(3) of this article.
- (d) *Periodic compliance reports.*
- (1) All significant industrial users shall, at a frequency determined by the POTW director, but in no case less than once every six (6) 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 subsections 8-2-57(j) and (k) of this section. All periodic compliance reports must be signed and certified in accordance with subsection 8-2-56(b)(3) of this article.
- (2) 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 claim that sample results are unrepresentative of its discharge.
- (3) 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 subsections 8-2-57(j) and (k) of this article, the results of this monitoring shall be included in the report.
- (e) *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 90 days before the change. The permittee shall not begin the changes until receiving written approval from the city. See section 8-2-57 for other reporting requirements.
- (1) 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 subsection 8-2-56(b) of this article.
- (2) The POTW director may issue a wastewater discharge permit under subsection 8-2-56(b) of this article or modify an existing wastewater discharge permit under subsection 8-2-56(b) of this article in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 20 percent or greater, and the discharge of any previously unreported pollutants; increases or decreases to production; increases in discharge of previously reported pollutants; discharge of pollutants not previously reported to the city; new or changed product lines; new or changed manufacturing processes and/or chemicals; or new or changed customers.

(f) *Reports of potential problems.*

- (1) 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 section 8-2-53(a), 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.
- (2) Within five (5) 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 article.
- (3) 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 subsection (1), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (4) 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 subsection 8-2-53(a).

(g) *Reports from unpermitted users.* All users classified as non-significant categorical industrial users under section 8-2-53(a) shall provide appropriate reports to the POTW director as the POTW director may require. At a minimum, this shall include the annual certification of continuing to meet the non-significant categorical industrial user criteria as required under 40 CFR 403.12(q).

(h) *Notice of violation; repeat sampling and reporting.*

- (1) 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. The user is not required to resample if the POTW director monitors at the user's facility at least once a month, or if the POTW director samples between the user's initial sampling and when the user receives the results of this sampling.
- (2) If the POTW director or designee has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the POTW director (or designee) shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one (1) of the following occurs:
 - a. The POTW director monitors at the user's facility at least once a month; or
 - b. The POTW director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
 - c. 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.

(i) *Notification of the discharge of hazardous waste.*

- (1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in

40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. The user shall not begin the discharge until receiving written approval from the city. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under subsection 8-2-57(e) of this article. 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 subsections 8-2-57(a), (c) and (d) of this article.

- (2) Discharges are exempt from the requirements of paragraph (1) 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 CFR 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 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
 - (3) 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.
 - (4) 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.
 - (5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.
- (j) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard or unless otherwise performed in accordance with procedures approved by EPA or the city. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved EPA and the city. Analyses must be performed by a state certified lab for each parameter analyzed, if such certification exists for that parameter.
- (k) *Sample collection.*
- (1) 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.
 - (2) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the user's discharge. See 40 CFR 403.12(g)(5) for

additional grab sample number requirements for BMR and 90-day compliance reports. Additionally, the [POTW director] may allow collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 CFR 136.

- (3) **Composite samples:** All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the [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.
 - (l) **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.
 - (m) **Record keeping.** Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article 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 date analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the POTW director.
 - (n) **Electronic reporting.** The [POTW director] may develop procedures for receipt of electronic reports for any reporting requirements of this section. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under section 8-2-60 of this article.
- (Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-58. Compliance monitoring.

- (a) **Monitoring facilities.** The city 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 city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

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

- (b) **Inspection and sampling.** The city will inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city 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 city, 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 city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the city's, approval authority's or EPA's access to the user's premises shall be a violation of this article. Unreasonable delays may constitute denial of access.

- (c) *Search warrants.* If the city, 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 article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city, approval authority, or EPA may seek issuance of a search warrant from the 18th Judicial District of Guilford County.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-59. Confidential information.

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.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this article, 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.

All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-60. Enforcement.

- (a) *Administrative remedies.*

- (1) *Notification of violation.* Whenever the POTW director finds that any industrial user has violated or is violating this article, 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 city by the user. Submission of this plan does not relieve the discharge of liability for any violations occurring before or after receipt of the notice of violation. Violations will be administered according to the enforcement response plan (ERP).
- (2) *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 section 8-2-60(a)(4) below.

- (3) *Show cause hearing.* The POTW director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this article or is in noncompliance with a wastewater contributor permit to show cause why a proposed enforcement action should not be taken. 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 10 days before the hearing. Service may be made on any agent or officer of a corporation.

The POTW director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate. A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under subsection 8-2-60 nor is any action or inaction taken by the POTW director under this section subject to an administrative appeal under subsection 8-2-56(b). POTW director's final decision shall be to either proceed with the proposed enforcement action or to modify the action. Such modification may include but is not limited to the issuance of an order to the industrial user directing that, following a specified time period, the sewer service be discontinued unless facilities, devices or other related appurtenance shall have been installed and are properly operated. Further orders and directives as are necessary and appropriate may be issued.

- (4) *Administrative orders.* When the POTW director finds that an industrial user has violated or continues to violate this article, 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:
- a. Immediately comply with all requirements;
 - b. Comply in accordance with a compliance time schedule set in the order;
 - c. Take appropriate remedial or preventive action in the event of a continuing or threatened violation.
- (5) *Emergency suspensions.* 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.

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 suspended 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.

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- (6) *Termination of permit or permission to discharge.* 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 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 section, or any applicable state and federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under subsection 8-2-57(a) of this article why the proposed action should not be taken.

(b) *Civil penalties.*

- (1) Any user who is found to have failed to comply with any provision of this article, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty up to \$25,000 per day per violation. Such assessments may be added to the user's next scheduled sewer service charges and the POTW shall have such remedies for the collection of such assessments as it has for collection of other service charges (40 CFR 403.8(f), G.S. 143-215.6A(a)).
 - a. Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
 1. For any class of violation, only if a civil penalty has been imposed against the violator within the five (5) years preceding the violation, or
 2. In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this section, 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 (5) years preceding the violation.
- (2) In determining the amount of the civil penalty, the POTW director shall consider the following:
 - a. 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;
 - b. The duration and gravity of the violation;
 - c. The effect on ground or surface water quantity or quality or on air quality;
 - d. The cost of rectifying the damage;
 - e. The amount of money saved by noncompliance;
 - f. Whether the violation was committed willfully or intentionally;
 - g. The prior record of the violator in complying or failing to comply with the pretreatment program;
 - h. The costs of enforcement to the city.
- (3) Appeals of civil penalties assessed in accordance with this section shall be as provided in section 8-2-70.

(c) *Other available remedies.*

(1) Remedies, in addition to those previously mentioned in this article, are available to the POTW director/superintendent who may use any single one (1) or combination against a noncompliant user. Additional available remedies include, but are not limited to:

- a. *Criminal violations.* The district attorney for the (18th) judicial district may, at the request of the city, prosecute noncompliant users who violate the provisions of G.S. 143-215.6B. (Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. 143-215.6B(i)).
- b. *Injunctive relief.* Whenever an industrial user is in violation of the provisions of this article or an order or permit issued hereunder, the POTW director, through the city attorney, may petition the superior court of justice for the issuance of a restraining order or a preliminary and permanent injunction, which restrains or compels the activities in question.
- c. *Water supply severance.* Whenever an industrial user is in violation of the provisions of this article 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 consistent compliance.
- d. *Public nuisances.* Any violation of the prohibitions or effluent limitations of this article 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 subsections 8-2-54(a)(2)f. and 8-2-60(b) of the sewer use ordinance.

(d) *Remedies nonexclusive.* The remedies provided for in this article are not exclusive. The POTW director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the POTW director may take other action against any user when the circumstances warrant. Further, the POTW director is empowered to take more than one (1) enforcement action against any noncompliant user.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-61. Annual publication of reportable noncompliance.

At least annually, the POTW director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which are found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H .0903(b)(10), with this article or any order or permit issued hereunder, during the 12-month period since the previous publication.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-62. Affirmative defenses to discharge violations.

(a) *Upset.*

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- (1) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (2), below, are met.
 - (2) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and the user can identify the cause(s) of the upset;
 - b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and
 - c. 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 (5) days):
 1. A description of the indirect discharge and cause of noncompliance;
 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
 - (3) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
 - (4) 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.
 - (5) 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.
- (b) *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 subsection 8-2-54(a) of this article or the specific prohibitions in subsections 8-2-54(a)(2)b., c., g. through k., m. through v. of this article 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:
- (1) 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
 - (2) 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.
- (c) *Bypass.*
- (1) 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 subsections (2) and (4) of this section.
 - (2) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW director, at least 10 days before the date of the bypass, if possible.
 - (3) 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 (5) days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence 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.

- (4) Bypass is prohibited, and the POTW director may taken 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 subsection (3) of this section.
- (5) The POTW director may approve an anticipated bypass, after considering its adverse effects, if the POTW director determines that it will meet the three (3) conditions listed in subsection (4) of this section.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-63. Severability.

If any provision, paragraph, word, or section of this article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, section, and chapters shall not be affected and shall continue in full force and effect.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-64. Conflict.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this article are hereby repealed to the extent of such inconsistency or conflict.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-65. Septic tank waste.

No person shall discharge into the sanitary sewerage system any waste from any septic tank or other private sewage disposal device except under the following conditions:

- (1) Only waste of domestic character (or other waste approved on special arrangement and in advance which in the opinion of the director of public services will not be detrimental to operation of the pollution control plants) will be allowed.
- (2) All waste shall be discharged at either the eastside or westside pollution control plant at the discretion of the director of public services or his authorized representative and under the supervision of the operator on duty.

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- (3) Persons desiring to discharge waste in accordance with this section shall make application to and contract with the director of public services for such service, and obtain septage vouchers.
 - (4) Fee for septage vouchers shall be paid for in advance at the rate set forth in a rate schedule adopted by city council for each truckload of 1,000 gallons or fraction thereof.
 - (5) Prior to discharging any waste, the truck driver will complete the septage voucher, which shall be submitted to the operator on duty, setting forth the name of the individual, firm or corporation responsible for the waste, the name of the driver of the waste-carrying vehicle, the date and time of discharge, and the name, address and telephone number of the owner of each premises where the waste was collected.
 - (6) All waste-carrying vehicles shall have clear permanent markings showing the owner's name, address, Guilford County Health Department permit number and waste-carrying capacity in gallons.
 - (7) If at any time, in the opinion of the director of public services, the best interest of the city will be served by discontinuance of this service, then no more such wastes shall be accepted from any person, firm or corporation.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-66. Sewer connections—Compulsory rules and regulations for permanent pavement of street.

All owners, whether in fee or as life tenants, of houses or lots abutting on a street where a public sewer is laid, or which otherwise have access to a public sewer, shall connect all water closets or privies on such property with the sewer system, under such rules and regulations as are prescribed by the city council, and in the event that an order has been made for the permanent paving of any street, the sewer department shall make a connection from the sewer line to the curb line in front of each lot. Such connection shall be 15 feet from the lower property line when practicable.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-67. Same—Procedure for compelling.

Whenever any property in the city or within its service area shall be required by this article to be connected with the sewer system, the procedure for compelling the connection to be made shall be as follows: 30 days' notice printed or written requiring such connection shall be served by the director of public services of the city on the owner of the property if he is a resident of the city or on his agent if such owner is a nonresident, and where a nonresident has no agent in the city then such notice shall be published for 10 days in a newspaper published in the city.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-68. Same—Refusal to make.

It shall be unlawful for any property owner whose property or premises shall be required by the ordinances of the city to be connected with the public sewerage system to refuse or neglect to make connection in the manner required.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-69. Same—Fees.

- (a) The charges for sewer connections shall be as prescribed in a rate schedule adopted by city council.
- (b) Any person residing outside of the corporation limits of the city and seeking permission to tap on any sewer line located outside the city must first make written application to the city council and must furnish a set of approved plans, from which no additions or deletions shall be made without city approval, showing any information concerning the location, size, depth and length of main to be laid and any other information deemed necessary and requested by the public services department and must secure the approval of the public services department and of the city council before such connection is made.
- (c) Any person who shall receive such permission to tap on to the city sewer system shall not permit any extension of such main to serve any other family, firm or corporation unit except by special permission of the city council.
- (d) The city reserves the right to have any waste matter going into the city's sewer main or sewer system to be checked and examined to determine whether such material or waste matter is corrosive, volatile, suffocating, flammable or explosive and/or would result in damage or destruction of the city's sewer line or system and if found hazardous or damaging to the city system, the owner shall be required to remove such waste from the city system.
- (e) Drawings and specifications for all laterals required for industrial or residential development must be submitted to and approved by the director of public services.
- (f) Charges for sewer connections outside the corporate limits of the city shall be submitted as outlined in a rate schedule adopted by city council, plus an additional amount as set forth in a rate schedule adopted by the city council per front foot of lot tract based on division or use. If the tap on is made to an outfall line, the same charge based on frontage shall apply, except for residences on undivided farm land where a frontage of 100 feet will be assumed.
- (g) Where such sewer lines are in a street right-of-way, the city shall extend the connection to the curb line; where such sewer lines are not in a street right-of-way, the city shall extend the connection at the most convenient point within the right-of-way of the sewer main or outfall.
- (h) Any person, firm or corporation found to be illegally connected to the sanitary sewer system of the city shall be required to pay a penalty as set forth in a rate schedule adopted by city council plus the usual connection fee and service charges as determined by the public services department for the period of illegal use. After payment of the determined amount of money, the person, firm or corporation must submit an application, on forms supplied by the city; provided that sewer connection charges on lines installed under the agreement with Guilford County shall be the same rate for sewer connections inside the corporate limits.
- (i) Any property owner desiring to connect to a sewer main laid under assessment shall, in addition to the regular tap-on fee, pay an amount equal to his prorated share of the assessment.

(Ord. No. 6486/07-81, § 1, 9-20-07; Ord. No. 6965/12-81, 12-17-12)

Sec. 8-2-70. Hearings.

- (a) *Initial adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under subsection 8-2-60(b), or one issued an administrative order under subsection 8-2-60(a)(4) shall have the right to an adjudicatory hearing before the POTW director or other hearing officer appointed 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 and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated.

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 as described in subsection (b) below. The decision is a final decision for the purposes of seeking judicial review. The terms and conditions of a permit under appeal shall be as follows:

- (1) *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.
 - (2) *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.
 - (3) *Terminated permits.* Upon appeal, including judicial review in the general courts of justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (b) *Final appeal hearing.* Any decision of a hearing officer made as a result of an adjudicatory hearing held under subsection (a) above may be appealed, to the city council upon filing a written demand within 10 days of receipt of notice of the decision. Hearings held under this subdivision shall be conducted in accordance with city policies. Failure to make written demand within the time specified herein shall bar further appeal. The city council 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 as described in subsection (c) below. The decision is a final decision for the purposes of seeking judicial review.
- (c) *Official record.* When a final decision is issued under subsection (a) above, the hearing officer shall prepare an official record of the case that includes:
- (1) All notices, motions, and other like pleadings.
 - (2) A copy of all documentary evidence introduced.
 - (3) 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.
 - (4) A copy of the final decision of the hearing officer.
- (d) *Judicial review.* Any person against whom a final order or decision of the hearing officer is entered, pursuant to the hearing conducted under subsection (a) above, may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Guilford County within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, along with a copy to the

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city. Within 30 days after receipt of the copy written request for the review by the court, the hearing officer shall transmit to the reviewing court the original or a certified copy of the official record.

(Ord. No. 6965/12-81, 12-17-12)

Title 9 DEVELOPMENT⁹

CHAPTER 2 Inspection Regulations

ARTICLE E Minimum Housing Code¹⁰

Sec. 9-2-91. How article known and cited.

This article shall be known as the "Minimum Housing Code," may be cited as such and will be referred to herein as "this article."

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-92. Findings; intent.

Pursuant to G.S. 160A-441 and 160A-443, the city council hereby finds and declares the existence and occupation of dwellings within the city limits that are unfit for human habitation and inimical to the welfare, and dangerous and injurious to the health, safety and morals of, the residents of the city, and that a public necessity exists for repairing, closing, or demolition of such dwellings, in the manner herein provided, as provided by North Carolina State General Statutes. The city finds that there exists in the city, dwellings that are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering the dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of the city.

(Ord. No. 7301/17-43 , 6-5-17)

Commented [LAM28]: This Article had a general provision in Section 9-2-113 criminalizing the entire Article. As a result, PS has gone through and noted the sections that we recommend criminalizing as allowed under S.L. 2021-138 (since they relate to "unsafe buildings").

⁹Editor's note(s)—Ord. No. 7206/16-26 , adopted May 16, 2016, and effective Jan. 1, 2017, repealed Chs. 1—10 of this title, enacted a new Ch. 1, and renumbered the former Ch. 11 as Ch. 2 as set out herein. The historical notation has been retained with the amended provisions for reference purposes. Formerly, Title 9 derived from the City of High Point Development Ordinance, adopted on Jan. 7, 1992, effective March 1, 1992, and subsequently amended. For a complete derivation, see the Code Comparative Table.

¹⁰Editor's note(s)—Ord. No. 7301/17-43 , adopted June 5, 2017, amended Article E in its entirety. Former Article E pertained to similar subject matter and derived from Ord. No. 96-28, §§ 1—6, adopted May 5, 1996; Ord. No. 96-74, § 2, adopted December 12, 1996; Ord. No. 6166/04-63, §§ 2—7, adopted August 19, 2004; and Ord. No. 7206/16-26 , § 4, adopted May 16, 2016.

Sec. 9-2-93. Purpose.

The purpose of this article is to arrest, remedy, and prevent and eliminate the decay and deterioration of dwellings for the protection of the life, health, welfare, safety and property of the general public and the owners and occupants of dwellings.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-94. Jurisdiction.

The provisions of this article are applicable to all dwellings within the city limits and its extraterritorial jurisdiction, as now or hereafter fixed.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-95. Definitions.

Certain abbreviations, terms, phrases, words, and their derivatives shall be construed as specified in this article. Terms, words, phrases, and their derivatives used, but not specifically defined in this article, shall have the meaning specifically defined in the North Carolina State Building Code, and any terms, words, phrases, and their derivatives used, but not specifically defined in either this article or the North Carolina State Building Code, shall have the meaning specifically defined in the Development Ordinance.

- (a) *Abandon* shall mean an owner vacating or closing a dwelling for more than one (1) year and failing to substantially repair the dwelling, enter into a contract for repairing the dwelling, or maintain the premises or dwelling in a secure manner in accordance with this article.
- (b) *Accessory structure* shall mean any building or structure used or intended to be used in conjunction with a dwelling, whether attached to or detached from a dwelling, including, but not limited to, sheds, storage buildings, outbuildings, carports and garages, and any fence.
- (c) *Area*:
 - 1. As applied to the dimensions of a building, shall mean the maximum horizontal prospected area of the building at grade.
 - 2. As applied to the dimensions of a room, shall mean the total square footage of floor area between finished walls.
- (d) *Basement* shall mean a story with 50 percent or more of its cubical contents below finished yard grade.
- (e) *Building* shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "building" shall be construed as if followed by the words "or part thereof."
- (f) *Ceiling height* shall be the clear vertical distance from the finished floor to the finished ceiling.
- (g) *Demolish* shall mean the demolition and removal of the entire building leaving the premises free and clear of any debris and without holes or pockets which may retain water.
- (h) *Dwelling* shall mean any building, structure, manufactured home or mobile home, or portion thereof, which is used, or designed or intended to be used for human habitation, including living, sleeping, cooking, eating or any combination thereof, and shall include accessory structures. A dwelling does not include manufactured homes or mobile homes which are used solely for a seasonal vacation purposes.

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- (i) *Exit* shall mean a clear and unobstructed way of departure from the interior of a building to the exterior at street or grade level.
 - (j) *Extermination* shall mean the control and elimination of insects, rodents, or other pests eliminating their harborage places, by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the inspector.
 - (k) *Fire damage* shall mean an action caused by a fire other than smoke damage.
 - (l) *Garbage* shall mean the animal and vegetable refuse resulting from the handling, preparation, cooking and consumption of food, including a minimum amount of liquid necessarily incidental thereto.
 - (m) *Habitable room* shall mean 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, pantries, foyers, communicating corridors, closets or storage spaces.
 - (n) *Infestation* shall mean the presence, within or around a dwelling, of any harmful insects, rodents or other pests.
 - (o) *Inspector* shall mean the director of community development and housing or the inspector duly appointed by the director of community development and housing to enforce the provisions of this article. The inspector is the public officer as defined in G.S. 160A-442.
 - (p) *Occupant* shall mean any person living, sleeping, cooking or eating in, or having actual possession of, a dwelling or rooming unit.
 - (q) *Owner* means the holder of the title in fee simple and every mortgagee of record.
 - (r) *Parties in interest* shall mean all individuals, associations, partnerships, corporations, and others who have monetary interest in a dwelling and any who are in possession or control thereof either as agent of the owner, as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner.
 - (s) *Pier* shall mean a masonry support of at least eight (8) inches by twelve (12) inches of solid masonry extending from the ground and footing to and supporting the building or portion thereof. Pier sizes and spacing shall conform to the specifications of the North Carolina State Residential Building Code.
 - (t) *Plumbing* shall mean the water supply system, the sanitary and storm drainage system, the vent system, the fixtures and traps and shall include their respective connections, devices, appliances and appurtenances within the property lines of the premises.
 - (u) *Premises* shall mean a lot, plot or parcel of land, including the dwelling, building, or structure thereon or any part thereof, except land occupied by streets, alleys or public thoroughfares.
 - (v) *Public authority* shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city, county, or State relating to health, fire, building regulations, or other activities concerning dwellings in the city.
 - (w) *Rooming house* shall mean any dwelling, or part thereof, in which the owner or occupant shall rent or offer for rent accommodation for living and sleeping purposes to three (3) or more persons, none of whom is husband, wife, son, daughter, mother, father, sister or brother (or in a step or in-law kinship, with respect to the six (6) last-named relationships) of the owner or occupant renting or offering for rent the dwelling, or part thereof.
 - (x) *Rooming unit* shall mean any room for let within a rooming house
 - (y) *Sagging* shall mean the amount of deflection occurring over a span between two (2) supports. A deflection of L/240 and greater shall be deemed as a structural defect.

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(z) *Seriously* shall mean that the amount of damage occurring shall be sufficient to decrease the designed strength of the structural member.

(aa) *Tenant* shall mean any person who alone or jointly or severally with others occupies a dwelling under a lease or holds a legal tenancy in a building.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-96. Public officer.

Pursuant to G.S. 160A-443, the director of community development and housing is hereby designated as the public officer to exercise, by and through his duly appointed inspector, the powers prescribed by this article.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-97. Consulting agencies.

The inspector shall have authority to request advice and assistance of a High Point Planning and Zoning Commission, Housing Authority of High Point, High Point Fire and Police Department, Guilford County Health Department, Davidson County Health Department, Forsyth County Health Department, Randolph County Health Department, or any other public authority the inspector may deem appropriate, in exercising the powers of this article.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-98. Powers.

The inspector shall determine that dwellings are unfit for human habitation if the inspector finds a violation of the standards and requirements of fitness set forth in this article.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-99. Administrative liability.

Except as may otherwise be provided by North Carolina statute, local law or ordinance, no officer, inspector or employee of the city charged with the enforcement of this article shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. No person who institutes or assists in the prosecution of a criminal proceeding under this article shall be liable to damages hereunder unless he acted with malice and without reasonable grounds for believing that the person accused was guilty of any unlawful act or omission.

(Ord. No. 7301/17-43 , 6-5-17)

Sec 9-2-100. Minimum standards.

The following shall constitute the minimum standards and requirements for dwellings and shall be pertinent in determining fitness for human habitation.

(a) *Minimum services and facilities:*

1. The premises must be used and maintained individually without trespass upon adjoining premises.

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2. Utilities and other facilities shall be independent for each premises. An exception may be permitted for common gas and water service to two (2) adjacent premises where:
 - a. The location of the common service line does not adversely affect the future use of the premises, and
 - b. The common service line is protected by a permanent easement agreement to assure continued maintenance, and
 - c. Individual shut-off valves are provided so that independent service is assured, and
 - d. Ownership of the common portion of the service line remains with the serving utility.
 3. Each dwelling shall contain provisions for each of the following:
 - a. A continuing supply of safe and portable water.
 - b. Sanitary facilities and a safe method of sewage disposal.
 - c. Heating facilities adequate for healthful and comfortable living conditions.
 - d. Domestic hot water.
 - e. Electricity for lighting and for equipment used in the dwelling.
- (b) *Access:*
1. *Access to the premises.*
 - a. The premises shall be provided with vehicular access to the premises by an abutting public or private street. Private streets shall be protected by a permanent easement for ingress and egress.
 - b. The width and construction of the required street and provisions for its continued maintenance shall provide safe and suitable vehicular access to and from the premises at all times.
 2. *Access to the rear yard.*
 - a. Each dwelling shall be provided with a means of access to the rear yard, for safety.
 - b. For a row dwelling, the access shall be by means of an alley, easement, open passage through the dwelling, or other acceptable means.
- (c) *Premises maintenance:*
1. *Building and structure.*
 - a. Exterior surfaces, not inherently resistant to deterioration, shall be treated with a protective coating, such as paint or other suitable preservative, with sufficient frequency to prevent deterioration.
 - b. Floors, walls, ceilings, and fixtures shall be maintained in a clean and sanitary condition.
 2. *Open areas.* Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant water.
 3. *Infestation.* The premises and all dwellings shall be maintained free of infestation.
 4. *Garbage and refuse.* There shall be adequate sanitary facilities and methods provided and used for the storage, handling, and disposal of garbage and refuse.
- (d) *Minimum standards:*

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1. *General.* Each dwelling shall have at least two (2) habitable rooms of which one (1) shall be a bedroom. In addition, a bathroom shall be provided within. Dwellings designed as efficiency apartments may have one (1) habitable room, with a bathroom if the minimum space requirement is met.
 2. *Minimum standards objective.*
 - a. Each dwelling shall be provided with space necessary to assure suitable living, sleeping, cooking, and dining accommodations, adequate storage, laundry and sanitary facilities and laundry when required.
 - b. The area occupied by a stair or closets shall not be included in the determination of required room sizes.
 3. *Minimum space requirements.*
 - a. Living or principal room shall not be less than 100 square feet.
 - b. The first bedroom not less than 100 square feet.
 - c. All other bedrooms not less than 70 square feet.
 - d. Kitchen and dining room combination shall be not less than 100 square feet.
 - e. Efficiency apartment shall not be less than 200 square feet.
 4. *Minimum space requirements for occupancy.*
 - a. At least 150 square feet of habitable floor space for the first occupant.
 - b. At least 100 square feet for each of the next three (3) occupants.
 - c. At least 50 square feet for each additional occupant.

Note: Children under four (4) years of age shall not be counted.

(e) *Habitable rooms:*

1. Every habitable room shall be not less than seven (7) feet wide in any part and shall contain not less than 70 square feet of net floor area.
2. Habitable rooms shall have a clear height of not less than seven (7) feet six (6) inches for at least 50 percent of the net floor area. Except a kitchen can have a minimum height of seven (7) feet.
3. That portion of any room where the ceiling height is less than five (5) feet shall not be considered as required floor area.
4. A basement may be used as a habitable room if it meets the following criteria:
 - a. Finished rooms in basements or below grade intended for year round occupancy are considered habitable rooms and shall comply with the same standards as rooms above grade.
 - b. The floor and walls are impervious to leakage of underground and surface run-off water and are insulated against dampness and condensation.
 - c. The total window area in each room is equal to at least the window area sizes prescribed herein for habitable rooms (see subsection (g), light and ventilation requirements).
 - d. The total of openable window area in each room is equal to at least the area prescribed herein for habitable rooms (see subsection (e), light and ventilation requirements), except where there is supplied some other device affording adequate ventilation and approved by

the inspector. Habitable rooms used primarily for the purpose of sleeping that do not meet the requirements for openable window and which have adequate approved ventilation shall have two (2) exit doors located as remotely as possible from each other.

5. Toilet and bathing facilities shall be enclosed.
6. Access shall be provided to required toilet rooms without going outside building or habitable space.
7. Interior access shall be provided to all rooms within a dwelling without passing through a public space. Rooming houses are exempt from this requirement.
8. Doors shall be provided at all doorways leading to bedrooms, toilet rooms, and bathrooms and all rooms adjoining a public space.
9. Exterior doors shall have entrance locks.
10. All exterior doors shall be weathertight.

(f) *Rooming house requirements:*

1. Lavatory facilities shall be in good working condition and consist of one (1) flush water closet, one (1) washbasin and one (1) bathtub or shower for every six (6) persons residing in the rooming house.
2. Access shall be provided from any rooming unit to lavatory facilities without entering another dwelling, rooming unit or non-conditioned area.
3. A washbasin and bathtub or shower shall be provided and shall be properly connected and supplied with hot and cold running water.
4. A lavatory not located in the basement shall be provided.
5. Walls, floors and ceilings shall be maintained in a sanitary condition.
6. All garbage shall be promptly disposed of in a sanitary condition.
7. In rooming houses with fossil fuel heating systems exceeding 250,000 B.T.U., the furnace room shall be enclosed with material having at least a one-hour fire protection rating. A smoke detector shall be installed in every furnace room.
8. A smoke detector shall be installed in all public hallways within fifteen (15) feet of each rooming unit. Primary source of power for detectors shall be taken from the dwelling electrical current.

(g) *Light and ventilation requirements:*

1. Natural lighting, when required, shall be provided by means of windows, glazed doors, skylights, transparent or translucent panels, or by any combination thereof. The area of glazing material shall be sufficient to transmit an amount of light equal to that transmitted by the required area of clear glass.
2. For the purpose of providing adequate light, each habitable room shall have a total glazed area of not less than six (6) square feet.
3. Operable screened window must be three (3) percent of the total floor area or 50 percent of the existing window area, whichever is greater.
4. All outside windows and doors opening to the outside used for ventilation purposes shall be adequately screened. All dwellings where approved permanent conditioned air is provided shall be excluded from this requirement.

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- a. Screens shall not be permanently fixed to sash, frames or jamb.
 - b. All screen frames shall be removable for repair.
- 5. All moveable sash windows shall be lockable.
 - 6. An alcove opening off a habitable room may be included as part of that room in determining the window area required provided that a portion of the common wall between the habitable room and the alcove is open and unobstructed.
 - 7. For the purpose of determining light and ventilation requirements, any room may be counted with an adjoining room when one-half (½) of the area of the common wall is open and unobstructed.
 - 8. Windows shall be weathertight; there shall be no broken glass.
 - 9. A toilet room which contains more than one (1) flush unit shall have an operable window unless served by an approved ventilation system.
 - 10. Every public hall and inside stairway in every dwelling shall be adequately lighted at all times to permit safe passage.
- (h) *Exit requirements:*
- 1. Each dwelling shall have two (2) exits located as remotely as possible.
 - 2. At least one (1) exit shall be side hinged.
 - 3. One (1) exit door shall be at least 30 inches wide and six (6) feet, six (6) inches high.
 - 4. All exit doors shall be easily operable.
 - 5. There shall be a safe, continuous, and unobstructed exit from interior of building to the exterior at street or grade level.
 - 6. Those buildings meeting the requirements of the North Carolina Building Code exempting two (2) exits shall be exempted from the requirements of this section.
- (i) *Plumbing requirements:*
- 1. All new plumbing shall be installed in accordance with the North Carolina State Building Code. Any repair or replacement of existing plumbing shall be done in accordance with said plumbing code when, in the opinion of the chief plumbing inspector, it is practical or otherwise vital to the interest of health and sanitation.
 - 2. All plumbing shall be connected to the city water and sanitary sewer system where necessary as determined by the director of public services department or the department of health.
 - 3. All fixtures shall be operable.
 - 4. There shall be no broken water closet bowls.
 - 5. Water closet shall not be loose or leaking.
 - 6. No leaks shall be in shower stall floor.
 - 7. There shall be running water installed inside each dwelling.
 - 8. There shall be adequate separate facilities for furnishing running a hot and cold water to each tub or shower, lavatory, kitchen sink, and clothes washer connection when required.
 - 9. There shall be separate toilet facilities for each dwelling.

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10. All water piping shall be protected from freezing by proper insulation.
 11. Sewer and water lines shall be properly supported and no lines shall be broken or leaking.
 12. Every water closet compartment floor surface and bathroom floor surface shall be so constructed and maintained as to be reasonably impervious to water and so maintained to permit such floor to be readily kept in a clean and sanitary condition.

(j) *Heating requirements:*

1. All new heating, ventilation and air conditioning shall be installed in accordance with the North Carolina State Building Code, relating to H.V.A.C. Any repair or replacement of existing H.V.A.C. shall be done in accordance with said H.V.A.C. code when, in the opinion of the chief H.V.A.C. inspector it is practical or otherwise vital to the interest of dangerous and hazardous conditions.
2. Every building and every dwelling shall be weatherproof and capable of being adequately heated. The heating equipment in every dwelling shall be maintained in a safe workable condition.
3. A heating system shall be provided by the owner. In an occupied building the heating system shall be properly installed and maintained in a safe working condition and capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments to a temperature of 68 degrees Fahrenheit.

For unoccupied buildings no certificate of compliance shall be issued until issuance of a permit for a heating system, and said system has been inspected and found to be properly installed.

4. Hand-fired equipment shall have a check damper and turn damper installed in the smoke pipe unless it is included as an integral part of the heating unit. The turn damper shall have not less than 20 percent free opening when in closed position.
5. All applicable heating equipment installed on the premises shall be listed by a National Testing Laboratory accepted by the State of North Carolina labeled and installed in accordance with the provisions of the North Carolina State Building Code.
6. Liquid fuel stored on the premises shall be stored in accordance with the provisions of the North Carolina State Building Code.
7. There shall be no loose bricks in chimneys.
8. There shall be no holes in flues.
9. There shall be no hanging masonry chimneys.
10. Thimbles shall be grouted in tightly.
11. Thimbles shall not be broken.
12. Thimbles shall be high enough for stovepipe to rise one-quarter (¼) inch per foot minimum.
13. Hearth, where required, shall be at least 16 inches deep (measure to face material) and six (6) inches beyond each side of fireplace opening.
14. If fireplace opening is closed, it shall be a masonry closure.
15. Stove shall be within six (6) feet of thimble serving it.
16. No combustible material shall be within 18 inches of stovepipe.
17. Solid fuel burning stovepipe shall be not less than 24 gauge. Joints shall be fastened with three (3) screws.
18. No stovepipe shall be through combustible walls.

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19. In dwellings with central heat, fossil fuel heating system exceeding 250,000 B.T.U., more than two (2) adjoining heating systems or boiler heating system exceeding 10 horsepower, the furnace room shall be enclosed with material having a one-hour firewall.
 20. Solid fuel appliances require an approved-type mat, liquid fuel appliances shall be installed per manufacturer's specification.
 21. Liquid fuel storage tanks shall not be more than nine (9) feet above the surrounding grade.

(k) *Electrical requirements:*

1. There shall be at least two (2) duplex receptacles installed in each habitable room.
2. There shall be a lighting fixture controlled at the fixture or by wall switch installed in each habitable room, bathroom, laundry and furnace rooms. A third receptacle outlet controlled by a wall switch may be substituted for a fixture.
3. There shall be a wall switch controlled lighting fixture installed at each outside entrance, and in stairways controlled by three-way switches.
4. If the dwelling is wired for an electrical range and also an electric water heater or an electric clothes dryer, the electric service shall be a minimum of 100 amps.
5. Fuses shall be properly sized to match the wire sizes to prevent overloading and damaging the wire. Type "S" fuses, (fuse-stats), shall be used.
6. Stationary or fixed appliances shall be provided a duplex receptacle.
7. Extension cords used for lamps and accessories shall be limited to six (6) feet in length.
8. All switches, fixtures, and receptacles shall be in safe operable condition.
9. All new wiring to be installed shall be in accordance with the N.C. Electrical Code that is in effect at the time the work is done.
10. Within 15 feet of every bedroom there shall be provided an approved listed smoke detector installed as per the manufacture's recommendation and listing.
11. Any repair or replacement of existing wiring shall be done in accordance with said electrical code when, in the opinion of the electrical inspector, it is reasonably practical or otherwise vital to the health and safety in order to eliminate a dangerous and hazardous condition.
12. Where electric heat is installed in an existing dwelling, the requirements of the North Carolina State Electrical Code shall be met, including insulation minimums in flooring, walls, and ceilings.

(l) *Structural requirements:*

1. *Foundation.*
 - a. No footing shall be exposed.
 - b. Beneath the building, there shall be firm ground, reasonably dry ground, no soggy ground, no water standing, no water running under building unless designed otherwise.
 - c. There shall be sound footings, with adequate bearing.
 - d. There shall be sound piers with no loose mortar.
 - e. There shall be no piers in which a plumb line from top center falls outside the middle one-third ($\frac{1}{3}$) of the pier base.

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- f. There shall be no isolated solid masonry piers exceeding in height 10 times the least dimension of the pier.
 - g. There shall be no wood stiff-knee piers unless pressure treated or equivalent and bearing on solid masonry raised one (1) concrete block above ground level.
 - h. The space between the ground and the first floor of every dwelling which is enclosed shall be underpinned with masonry to substantially weather-proof and rodent-proof with adequate access opening of 18 by 24 inches with a door. Curtain walls shall have foundation vents installed at a minimum on one (1) square foot for every 250 square feet of crawl space when signs of moisture damage exist.
2. *Floors.*
- a. There shall be no seriously rotted, or termite damaged joists and sills.
 - b. There shall be no fire damaged charred wood.
 - c. There shall be no broken, overloaded, or sagging girders.
 - d. There shall be no broken, overloaded, or sagging sills.
 - e. Sills shall be reasonably level.
 - f. Sills shall be properly and sufficiently supported.
 - g. There shall be no broken joists.
 - h. Any floor joists which show signs of weakness or disrepair shall be properly replaced with lumber comparable to at least the same nominal dimension and grade as the original joist.
 - i. Flooring shall be weathertight without holes or excessive cracks which permit air penetration into rooms.
 - j. Flooring shall be reasonably smooth, and not rotten, fire damaged or worn through.
 - k. There shall be no loose flooring or floor covering.
 - l. The floor shall be reasonably level.
 - m. When any new flooring is to be installed there shall be a minimum of five-eighths ($\frac{5}{8}$) inch plywood underlayment (or equivalent) or three-quarters ($\frac{3}{4}$) inch tongue and groove board flooring over the floor joists.
3. *Walls, exterior.*
- a. There shall be no wall in which plumb line from top center of studs falls outside the bottom plate at any point along wall unless by design.
 - b. No studs shall be seriously rotted or termite damaged.
 - c. There shall be no fire damaged charred wood.
 - d. There shall be no broken structural members.
 - e. All siding shall be weathertight, with no holes or excessive cracks, or rotted boards.
 - f. There shall be no loose siding.
4. *Walls, interior.*
- a. Interior wall finish shall be free of holes.

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- b. There shall be no wall in which a plumb line from top center of studs falls outside of bottom plate unless by design.
 - c. There shall be no loose plaster, loose boards, or other loose wall materials susceptible to falling.
 - d. There shall be no cardboard, newspaper, or similar highly combustible wall finish in a dwelling.
 - e. There shall be no seriously rotted, termite damaged, or broken studs.
 - f. There shall be no fire damaged charred wood.
5. *Ceilings.*
- a. There shall be no seriously rotted, broken, sagging, or fire damaged joists or improperly supported ends.
 - b. Any ceiling joists which show signs of disrepair shall be properly replaced with lumber comparable to at least the same nominal dimension and grade as the original joist.
 - c. There shall be no holes.
 - d. There shall be no loose plaster, boards, sheet rock, or other ceiling finish susceptible to falling.
 - e. There shall be no cardboard, newspaper, or other similar highly combustible finishes in a dwelling.
 - f. There shall be an attic access provided with a minimum size of 14 x 24 inches.
6. *Roofs.*
- a. There shall be no seriously rotted, broken rafters or improperly supported ends.
 - b. There shall be no fire damaged charred wood.
 - c. Rafters shall be properly braced and tied. Maximum spacing of collar beams shall be five (5) feet on center, or other approved methods of bracing roof may be used.
 - d. Attics ventilation is required only when signs of heat or moisture damage exist. The net opening shall be at least 1/150 of the attic floor space. Obstructions caused by screens and louvers must be subtracted to obtain the net area. The net opening must be cut to 1/300 if 50 percent of the ventilation is in the upper portion of the attic. Alternate methods as specified in Volume 1b, Section 25, may be used.
 - e. There shall be no loose, or seriously rotted sheathing.
 - f. There shall be no fire damaged charred sheathing.
 - g. There shall be no loose roof covering, nor holes, nor leaks.
 - h. There shall be a minimum of Class "C" roof covering; except in the number one Fire District a Class "A" or "B" covering is required.
 - i. There shall be proper metal flashing at walls or chimney.
 - j. Not more than two (2) roof coverings may be installed.
7. *Porches, exterior stairs and steps.*

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- a. Floor, ceiling, and roof shall be equal to requirements set forth above, except sills, joists, and floors need not be level if providing drainage of floors; floors need not be weather-tight; ceiling height may be seven (7) feet; and attic shall be vented.
 - b. Posts, railings and guards shall not be seriously rotted or termite damaged and shall be sufficiently anchored.
 - c. Every porch, terrace or entrance platform located at least 36 inches above adjacent finished grade shall be equipped with railings not less than 30 inches high. Pickets shall be installed on railings and hand railings with no more than a six-inch spacing. Handrails continuous on all open sides of stairs exceeding 36 inches in height leading to a platform, porch or terrace, shall be installed at least 30 inches high.
 - d. Enclosed stairs exceeding a rise of 36 inches shall have at least a single handrail.
8. *Interior stairs and steps.*
- a. Stairs and steps shall be free of holes, grooves and cracks large enough to constitute an accidental hazard.
 - b. Interior steps and stairs more than 36 inches of rise shall have rails not less than 30 inches measured vertically from the nose of the treads to top of the rail.
 - c. Every rail shall be firmly fastened and maintained in good condition.
 - d. No flight of stairs shall be settled more than one (1) inch out of its intended position or pulled away from supporting or adjacent buildings.
 - e. There shall be no rotting, sagging, or deteriorating supports.
 - f. Every stair riser shall be reasonably uniform and shall not exceed eight and one-quarter (8 ¼) inches in height; treads shall be at least one and one-eighth (1 ⅛) inch thick and shall be securely fastened in position. Every wood stair riser in excess of 36 inches in width shall have an additional "stringer," each "stringer" to be spaced not more than 30 inches apart. The minimum depth of treads shall be 10 ¼ inches including the "nosing."
9. *Accessory structures.*
- a. Accessory structures shall either be maintained in a safe and substantial condition or demolished and removed.
 - b. Exterior surfaces, not inherently resistant to deterioration, shall be treated with protective coating, such as paint or other suitable preservative, and with sufficient frequency to prevent deterioration.
 - c. Any electrical, plumbing, heating, or other utilities furnished to an accessory structure shall be installed in accordance with applicable code provisions; and maintained in a safe condition.
 - d. Every accessory structure shall be properly maintained in a clean and sanitary condition and free from physical hazards and other matter detrimental to the public health.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-101. Occupants

(a) *Occupant's responsibilities.* Every occupant of a dwelling shall:

- 1. Keep the part of a dwelling which he occupies and controls in a clean and sanitary condition.

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2. Keep all required plumbing and other fixtures in a clean and sanitary condition, and exercise reasonable care in the use and operation thereof.
 3. Be responsible for the extermination of any insects, rodents or other pests whenever said dwelling is the only dwelling or portion thereof, infested and the owner has provided a reasonably insect-proof and adequately rodent-proof dwelling.
 4. Dispose of all garbage and other refuse in an approved garbage receptacle; when approved garbage receptacles are not provided by the landlord, it shall be the responsibility of the occupant to provide adequate approved garbage receptacles.
 5. Not place on the premises any material which causes a fire hazard or otherwise endangers the health or safety of any occupants of such dwelling; not place in storage or on the premises any furniture, auto parts, junk equipment or material which harbors insects, rodents or other pests.
 6. Not occupy any dwelling unless running water is provided to the required plumbing fixtures.
 7. Not place within any building for use therein any oil, kerosene or gas fired portable heater to be used as the primary source for heating or cooking.
 8. Not place on the premises for the use thereon any heating or cooking unit which constitutes a fire hazard. If the occupant provides heating or cooking equipment, the occupant shall be responsible for its proper installation and maintenance.
 9. Not cause such damage to the dwelling let to him as to make the same unfit for human habitation.
 10. No occupant of a rooming house shall heat or cook food or permit the heating or cooking of food within his rooming unit.
- (b) *Owner's responsibilities.* Any owner remains liable for violations of duties imposed upon him by this Article even though:
1. An obligation is also imposed on the occupant; or
 2. The owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this Article.
- (c) *Enforcement against occupant.* Upon discovering a violation of this section, the inspector shall have the power to order the correction of any such violation within 48 hours from date of notice thereof; in the event that the occupant fails to make such corrections, then the inspector shall set a hearing pursuant to the procedures of section 9-11—105, and thereafter may again order the correction of any such violation within 48 hours from date of service of the order upon the occupant or the inspector may order the dwelling to be vacated within a reasonable time. The inspector may pursue any other civil ~~or criminal~~ action as the inspector deems reasonably necessary in order to effectuate the purposes of this article.
- (d) *Safety of occupants.* In order to protect the health and safety of occupants of a dwelling, the owner shall, within 48 hours after being notified in writing by the occupant or the city, repair and replace any:
1. Broken, burst, frozen or inoperable plumbing pipe or fixtures;
 2. Exposed or unsafe wiring;
 3. Unsafe and/or dangerous cooking or heating equipment provided by the owner; and
 4. Fuel storage tanks and/or supply lines provided by the owner which are leaking, improperly supported or dangerous.

(Ord. No. 7301/17-43 , 6-5-17)

Commented [TNE29]: Removed to avoid confusion as to whether the inspect can take criminal action against the occupant.

Sec. 9-2-102. Powers and duties of inspector.

- (a) The inspector shall have such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including (without limiting the generality of the foregoing), the following powers in addition to others herein granted:
1. To investigate dwelling conditions in the city to determine which dwellings have been erected, constructed, altered, repaired, converted, maintained, or used in violation of this article.
 2. To administer oaths, affirmations, and to examine witnesses and receive evidence.
 3. To enter upon and within premises, dwellings, and buildings for the purpose of making examinations and investigations, provided that such entries shall be made in such lawful manner as to cause the least possible inconvenience to the person in possession.
 4. To appoint and fix the duties of such officers, agents and employees as the inspector deems necessary to carry out the purposes of this article.
 5. To delegate any of his functions and powers under this article to such officers and agents as the inspector may designate.
 6. To file civil action in the nature of summary ejectment to effectuate an order to vacate a dwelling as provided in G.S. 160A-443(7).
 7. To file copies of ordinances, orders and other notices with the office of the register of deeds, the clerk of superior court and other governmental agencies.
- (b) It shall be the duty of the inspector to diligently examine dwellings located in the city for the purpose of locating and taking action with respect to such dwellings that appear to be unfit for human habitation in violation of this article. The inspector shall conduct all inspections and procedures as provided by this article.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-103. Emergency cases.

- (a) In emergency cases where it reasonably appears there is immediate danger to the life or safety of any person or to the safety of other property, unless a dwelling unfit for human habitation is immediately repaired or demolished, the inspector shall order the dwelling vacated and cause the immediate repair or demolition of the dwelling and the cost of such repair or demolition shall be recovered and collected as is provided in section 9-11-105 hereof.
- (b) In emergency cases as cited above, the inspector shall have the power immediately to cause to be posted on the main entrance of any dwelling a placard with words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."
- (c) The employees of the city fire and police departments shall report to the inspector all dwellings which are, may be, or are suspected of being unfit for human habitation.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-104. Dwellings unfit for human habitation.

- (a) The inspector shall determine that a dwelling is unfit for human habitation if the inspector finds that any of the following conditions exist in the dwelling:

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1. Interior walls or vertical studs seriously list, lean or buckle to such extent as to render the dwelling unsafe.
 2. Supporting member or members showing 33 percent or more of damage or deterioration, or nonsupporting, enclosing or outside walls or covering showing 50 percent or more of damage or deterioration.
 3. Floors or roofs having improperly distributed loads, overloaded, or having insufficient strength to be reasonably safe for the purpose used.
 4. Such damage by fire, wind, or other causes as to render the dwelling unsafe.
 5. Dilapidation, decay, unsanitary conditions or disrepair dangerous to the health, safety, or welfare of the occupants or other people in the city or its environs.
 6. Inadequate facilities for egress in case of fire or panic.
 7. Defects significantly increasing the hazards of fire, accident or other calamities.
 8. Inadequate ventilation, light, heating or sanitary facilities endangering the health, safety or general welfare of the occupants or other residents of the city or its environs.
 9. Improper electrical, heating or plumbing facilities required by this Article which constitute a health or a safety hazard.
 10. Lack of adequate weatherization as required by Section 9-11-100.
 11. Lack of an operable smoke detector as required by Section 9-11-100.
- (b) Irrespective of the above, a dwelling may be construed by the inspector to be unfit for human habitation, and the inspector shall so find, if such dwelling contains any violations of any of the minimum standards set forth in section 9-11-100, which, in the judgment of the inspector, renders any dwelling dangerous or injurious to the health, safety or morals of the occupants of the dwelling, the occupants of neighboring dwellings, or other residents of the city.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-105. Procedure for enforcement.

- (a) *Initiation of preliminary investigation.* The inspector shall initiate a preliminary inspection of a dwelling when a petition is filed by a public authority or at least five (5) residents of the city charging that the dwelling is unfit for human habitation. The inspector shall also initiate a preliminary inspection of a dwelling whenever it appears to the inspector that any dwelling is unfit for human habitation.
- (b) *Notice of complaint.* If the inspector's preliminary investigation discloses a basis for determining that a dwelling is unfit for human habitation due to violations of the minimum standards provided for in this article, the inspector shall issue and cause to be served upon the owner and parties in interest of the dwelling a complaint stating the charges and containing a notice that a hearing at a place certain will be held before the inspector, not less than 10 days nor more than 30 days after serving of said complaint. Notice of such hearing shall also be given to at least one (1) person signing a petition relating to such dwelling.
- (c) *Hearing.* 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 and evidence relevant to the matter, at the place and time fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.
- (d) *Procedure after hearing.*

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1. After such notice and hearing, the inspector shall determine whether the dwelling is unfit for human habitation. If the inspector determines that the dwelling is unfit for human habitation, the inspector shall provide written findings of facts in support of such determination and the inspector shall issue and cause to be served upon the owner thereof an order directing and requiring the owner,
 - a. If the repair, alteration or improvement of the dwelling can be made at a cost equal to or less than 65 percent of the value of the dwelling, to repair, alter or improve the dwelling to comply with the minimum standards established by this article, within a specified period of time, not to exceed 30 days; or
 - b. If the repair, alteration or improvement of the dwelling would cost an amount in excess of 65 percent of the value of the dwelling, the order shall require the owner to demolish the dwelling, within a specified period of time, not to exceed 30 days.
 - c. The order may require that the dwelling be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the dwelling; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities.
 2. Such orders shall state that the failure to make timely repairs as directed shall make the dwelling subject to the issuance of an unfit order. Such orders shall further state that if the owner does not make the necessary repairs, alterations, or improvements to correct existing violations, or fails to vacate and close or demolish and remove the dwelling, as specified in the order, the inspector will submit a request to the city council to adopt an ordinance ordering the inspector to repair, alter, improve, vacate and close, or demolish and remove the dwelling.

Notwithstanding any other provision of law, if the dwelling is located in a historic district of the city and the Historic District Commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with N.C.G.S. 160A-400.14(a)

3. Whenever a determination is made that a dwelling must be vacated and closed, or removed or demolished, under the provisions herein, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the inspector, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the dwelling or premises for the purpose of providing affordable housing. The inspector or city clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the inspector to wait 45 days before causing removal or demolition.
4. If, within the time fixed by the inspector for repairing, altering or improving the dwelling, the inspector finds there has been substantial compliance with the provisions of the order, or that the owner has filed with the inspector a copy of a written contract with a contractor to make such repairs, alterations or improvements, the inspector may extend the time for compliance for an additional period not exceeding 90 days.
5. If the owner does not make the necessary repairs, alterations, or improvements to the dwelling to comply with the minimum standards established by this article, or fails to vacate and close the dwelling, within the time specified in the order, the inspector shall take one (1) or more of the following actions in accordance with this section:

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- a. Secure the issuance of a warrant charging such owner with violation of this article.
 - b. Cause such dwelling to be repaired, altered, improved, provided that an ordinance ordering the inspector to effectuate this action has first been approved by city council. Any such ordinance adopted by city council shall be recorded in the office of the register of deeds in the county wherein the dwelling is located and shall be indexed in the name of the owner in the grantor index.
 - c. Cause such dwelling to be vacated and closed, provided that an ordinance ordering the inspector to effectuate this action has first been approved by city council. Any such ordinance adopted by city council shall be recorded in the office of the register of deeds in the county wherein the dwelling is located and shall be indexed in the name of the owner in the grantor index. The inspector shall cause to be posted on the main entrance of the dwelling for which an ordinance has been adopted by city council ordering the owner to vacate and close the dwelling a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." The inspector shall notify the customer services department for the city of all dwellings found unfit for human habitation that are vacant so that the customer services department for the city can discontinue services until such time as there is compliance with the order.
6. If the owner of a dwelling, which has been found unfit for human habitation, shall fail to comply with an order of the inspector issued pursuant to this article to demolish and remove the dwelling, the inspector may cause the dwelling to be demolished and removed, provided that the city council by ordinance has ordered the inspector to proceed to effectuate such action. Any such ordinance adopted by city council shall be recorded in the office of the register of deeds in the county wherein the dwelling is located and shall be indexed in the name of the owner in the grantor index. No such ordinance shall be adopted until the owner has first been given a reasonable opportunity to bring the dwelling into conformity with this article.
 7. As provided by G.S. 160A-443(6), the amount of the cost of any repairs, alterations, improvements, vacating and closing, or demolition and removal by the inspector shall be a lien against the real property upon which such cost was incurred; said lien shall be filed, have the same priority and be collected or foreclosed upon in the same manner as is provided for special assessments pursuant to Article 10, Chapter 160A of the North Carolina General Statutes. The amount of the cost is also a lien on any other real property of the owner located within the City limits or within one (1) mile thereof except for the owner's primary residence. This additional lien is inferior to all prior liens and shall be collected as a money judgment. If the dwelling 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 (in a special proceeding brought before the clerk of superior court for said purpose). All liens shall be filed in the office of the register of deeds of the county where the dwelling is located.
 8. Failure on the part of any owner or party in interest to receive or have served upon him any complaint, notice or order herein provided for shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person, firm, or corporation.
 9. The inspector is hereby authorized to fix reasonable value of any dwelling for the purpose of this article and such value shall be binding, unless the owner protests such value in writing to the inspector within ten (10) days after receipt of an order.

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10. A twenty-five dollar (\$25.00) inspection fee shall be charged for any type of courtesy inspection requested by any person.

(f) *Dwellings vacated and closed for one year or more.*

1. If the owner of a dwelling which has been vacated and closed under the provisions of this article shall fail to repair, alter, or improve the dwelling within one (1) year of the date on which the dwelling was vacated and closed, the city council may, after the expiration of such one (1) year period, enact an ordinance, which shall be recorded in the office of the register of deeds in the county wherein the dwelling is located and indexed in the name of the owner in the grantor index, requiring the owner to do the following:
 - a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding 50 percent of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or
 - b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding 50 percent of the then current value of the dwelling, the ordinance shall require that the owner demolish and remove the dwelling within 90 days.
2. Prior to enacting such an ordinance, the city council shall find:
 - a. 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
 - b. The continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the city in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants and would attract persons intent on criminal activities, would cause and contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this city.
3. If the owner fails to comply with subsection (f) of this section, the inspector shall effectuate the purpose of this article and the amount of the cost of repairing, altering, improving, or demolishing and removing the dwelling by the city shall be a lien against the real property upon which the costs were incurred pursuant to subsection (e)(7) of this section.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-106. Certificate of compliance.

It shall be unlawful for any owner to rent or offer for rent any vacant dwelling or part thereof upon which an order to repair, alter, improve, or to vacate and close has been issued without the owner first filing application for and securing a certificate of compliance from the inspector. The inspector shall issue a certificate of compliance when, after examination and inspection, it is found that the repairs, alterations, and improvements have been made and that the dwelling conforms with the provisions of this article. The owner requesting a certificate of compliance shall pay no fee for the first two (2) inspections required in which the owner is seeking a certificate of compliance; provided, however, the owner shall pay a fee of \$25.00 for each subsequent reinspection required. Any violation of this Section by the owner related to an unsafe building as defined in G.S. 160D-1119 is punishable as a misdemeanor shall subject the violator to a fine of \$50.00 a day or 30 days imprisonment for each day occupancy of the dwelling is permitted, not to exceed a total of \$500.00 in fines for any one (1) dwelling. Any owner or rental agent so violating this section by leasing a dwelling before obtaining a certificate of compliance shall be subject to immediate prosecution.

Commented [TNE30]: PS recommends continuing to criminalize this section (it is criminalized in the current version) based on S.L. 2021-138 allowing criminalization of ordinances "related to unsafe buildings."

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-107. Appeal.

- (a) An appeal to the board of adjustment may be taken from any decision or order of the inspector by any person aggrieved thereby or by any officer, board or commission of the city. Any appeal from the inspector to the board of adjustment shall be taken within 10 days, and shall be taken by filing with the inspector a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of notice of appeal, the inspector shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, the inspector's decision shall remain in force until modified or reversed. When any appeal is from a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board of adjustment, unless the inspector certifies to the board of adjustment, after the notice of appeal is filed with him, that because of 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 by a restraining order, which may be granted for due cause shown upon not less than one (1) day's written notice to the inspector, by the board of adjustment, or by a court of record upon petition made pursuant to this article.
- (b) The board of adjustment shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board of adjustment may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that 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 (4) members of the board of adjustment shall be necessary to reverse or modify any decision or order of the inspector. The board of adjustment shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- (c) 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 decision of the board of adjustment, but not otherwise.
- (d) 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 had by the court on a petition within 20 days, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.
- (e) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this article or of any other ordinance or code adopted by the city, or any valid order or decision of the inspector or board of adjustment made pursuant to any ordinance or code adopted by the city, the inspector or board 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 dwelling, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

(Ord. No. 7301/17-43 , 6-5-17)

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(Supp. No. 4)

Sec. 9-2-108. Service of complaints, etc.

Complaints, notices or orders issued by the inspector pursuant to this Article shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint, notice, or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the dwelling affected.

If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the inspector in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the inspector makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required under the provisions of this article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected. Failure on the part of any owner or party in interest to receive or have served upon him any complaint, notice or order herein provided for shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-109. Notice of lis pendens.

Upon the issuance of a complaint and notice of hearing or an order pursuant thereto, the inspector may cause the filing of a notice of lis pendens, with a copy of the complaint and notice of hearing or order attached thereto, in the office of the clerk of superior court. The notice of lis pendens and a copy of the complaint and notice of hearing or order attached shall be indexed and cross-indexed in accordance with the indexing procedures of the North Carolina General Statutes. From the time and date of recording of such complaint and notice of order, it shall be notice to and binding upon the successors in interest or assigns of the owner. Upon compliance with the requirements of any order based upon such complaint and hearing, the inspector shall direct the clerk of superior court to cancel the notice of lis pendens.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-110. Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary action or otherwise, and the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. The procedure described in this article shall be in addition and supplemental to the powers conferred on the city by any other law.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-111. Conflicts with other provisions.

In the event any provision, standard or requirement of this article is found to be in conflict with any provision of any other ordinance or code of the city, 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 city shall prevail.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-112. Validity.

If any section, subsection, sentence, clause, or phrase of this article is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article.

(Ord. No. 7301/17-43 , 6-5-17)

Sec. 9-2-113. Violations and penalties.

- (a) It shall be unlawful for any owner of any dwelling to fail, neglect or refuse to repair, alter or improve the same, or to fail to vacate and close or remove and demolish the same, upon order of the inspector duly made and served as herein provided, within the time specified in the order. It shall be unlawful for the owner of any dwelling, with respect to which an order has been issued pursuant to section 9-11-105 of this article, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement or its vacation and closing. All dwellings which are vacated upon order of the inspector to repair or vacate and close the same shall be kept locked and secured in a manner so as not to create a fire and safety hazard or to create a hazard to children or attract vagrants or persons with criminal intent and the lawns and grounds of such vacant dwellings shall be kept free of high grass, weeds, trash and debris. It shall be unlawful for an owner of any dwelling which is vacant and under an order to repair, alter, improve or to remove and demolish same to fail to properly lock and secure same or to keep the lawns and grounds of such dwelling free of high grass, weeds, trash, and debris.
- (b) An owner who fails to comply with an order to repair or to improve, vacate or close any occupied dwelling determined unfit for human habitation pursuant to the provisions contained in section 9-11-105, or who permits the reoccupancy of a vacant dwelling found to be unfit for human habitation or who fails to secure a vacant dwelling which has been found unfit for human habitation or who fails to keep the lawns and grounds of such dwelling free of high grass, weeds, trash and debris, shall be subject to a civil penalty in the amount of \$100.00 for the first day following the expiration of an order to repair, improve, or vacate and close any dwelling or following a determination that any unfit dwelling has been reoccupied in violation of section 9-11-105 or following notification that a vacant dwelling is to be secured or following notification to cut high grass and weeds or remove trash and debris. In each instance, a civil penalty in the amount of \$50.00 per day shall be imposed for each subsequent day that the unfit dwelling remains occupied in violation of this article or a vacant dwelling remains open and not secured or grounds and lawns are not mowed or cleared of trash and debris. If a person fails to pay the civil penalty within 10 days after being notified of the amount due, the city may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt. No civil penalty shall be imposed against an owner of an unfit dwelling where the only violation rendering a dwelling unfit is a violation of section 9-11-101, unless the owner is also the occupant.
- (c) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this article or any order or decision of the inspector or board of adjustment, the inspector is authorized to 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 dwelling, to prevent any illegal act, conduct or use in or about the premises of the dwelling or for any other purpose authorized by G.S. 160A-446(g) or any other law. 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 city and permitted by law.
- (d) No person shall remove or permit the removal of any placard, complaint, notice or order posted in accordance with the provisions of this article.

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(Supp. No. 4)

- (e) No person shall occupy any dwelling with a placard, complaint, notice or order posted on it in accordance with the provisions of this article. ~~Occupation of a dwelling so posted shall constitute a Class 1 misdemeanor.~~
- (f) When the inspector finds that a dwelling is unfit for human habitation within the meaning of this article and has notified the owner that the time limit set by the inspector for the correction of defects and vacating the dwelling has expired, no person shall receive rentals, offer for rent, or occupy said dwelling for any purpose.
- (g) No person shall damage, mutilate or remove, nor shall any person suffer, permit or cause to be damaged, mutilated or removed, any permanent fixtures from any dwelling.
- (h) It shall be unlawful for the owner of any dwelling upon whom a notice, complaint or order has been served, to sell, transfer, mortgage, lease or otherwise dispose of said dwelling until the provisions of the notice, complaint or order have been complied with, or until such owner shall furnish to the transferee, lessee, or mortgagee, a true copy of any notice, complaint or order issued by the inspector and concurrently give written notice to the inspector of the intent to transfer, lease, or mortgage as to whom the transferee, lessee or mortgagee who had received actual constructive notice of the existence of a notice, complaint or order shall be bound by the notice, complaint or order as of date of the transfer, lease or mortgage without service of further notice upon him.
- (i) ~~Any~~ ~~The violation provided in~~ ~~any provisions of this article shall constitute a misdemeanor as provided by G.S. 14-4.~~ this section related to unsafe buildings as defined in G.S. 160D-1119 is punishable as a misdemeanor.

(Ord. No. 7301/17-43 , 6-5-17)

Secs. 9-2-114—9-2-130. Reserved.

ARTICLE G Regulation of Abandoned and Junked Motor Vehicles¹¹

Sec. 9-2-161. Purpose and finding.

The purpose of this article is to provide for the lawful regulation of abandoned and junked motor vehicles within the city's ordinance-making jurisdiction and to prohibit the abandonment of motor vehicles on public streets or on public or private property within the city, including the removal and disposal of junked or abandoned motor vehicles according to the procedures set forth herein; furthermore, the city council hereby finds and declares that the regulation, restraint or prohibition of the abandonment of junked motor vehicles on public grounds, and on private property within the city is necessary and desirable to promote or enhance community, neighborhood or area appearance and such enforcement may include the removal or disposal of junked motor vehicles according to the procedures set forth herein. Further objectives of this article are as follows:

- (a) To ensure the public health, safety, and general welfare by providing controls on the removal and disposal of abandoned and junked motor vehicles.
- (b) To prohibit abandoned or junked motor vehicles from being disposed of by leaving them on public or private property.

¹¹Editor's note(s)—Ord. No. 7298/17-40 , adopted May 15, 2017, repealed the former Art. G, §§ 9-2-161—9-2-168, and enacted a new Art. G, §§ 9-2-161—9-2-165, as set out herein. The former article pertained to similar subject matter and derived from Ord. No. 7206/16-26 , § 4, 5-16-2016.

Commented [TNE31]: This was the general provision criminalizing the entire Article. PS recommends continuing to criminalize (with the addition of the “related to unsafe buildings” language based on S.L. 2021-138 allowing criminalization of ordinances “related to unsafe buildings.”).

Commented [LAM32]: This article contained a general provision in Section 9-2-165 criminalizing the entire article. However, there is only one section that can actually be criminalized. Criminalizing is okay under here because authority for these ordinances comes from G.S. § 160A-303.

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- (c) To eliminate the present accumulation of abandoned and junked motor vehicles.
 - (d) To prevent future accumulation of abandoned and junked motor vehicles.
 - (e) To promote or enhance community, neighborhood or area appearance.

(Ord. No. 7298/17-40 , 5-15-17)

Sec. 9-2-162. Definitions.

- (a) *Motor vehicle.* A machine designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.
- (b) *City official.* Director of community housing and development or his or her designee.
- (c) *Abandoned motor vehicle.* A motor vehicle that:
 - (1) Has been left upon a street or highway in violation of a law or ordinance prohibiting parking; or
 - (2) Is left on property owned or operated by the city for longer than 24 hours; or
 - (3) Is left on private property without the consent of the owner, occupant, or lessee of the private property for longer than two (2) hours; or
 - (4) Is left on any public street or highway for longer than seven (7) days or is determined by law enforcement to be a hazard to the motoring public.
- (d) *Health hazard.* An abandoned or junked motor vehicle shall be declared by the city official to be a health hazard when its condition is such that the motor vehicle can or does harbor diseases, furnish shelter and breeding places for mosquitoes and other insects, or become a breeding ground and harbor for rats and other pests.
- (e) *Safety hazard.* An abandoned or junked motor vehicle shall be declared to be a safety hazard when its condition is such that the motor vehicle's areas of confinement which cannot be opened from the inside, such as trunk compartments and engine compartments and engine or glass, windows, or any exterior or interior fixtures present physical dangers to the safety and well-being of children or other persons.
- (f) *Junked motor vehicle.* An abandoned motor vehicle that also:
 - (1) Is partially dismantled or wrecked; or
 - (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or
 - (3) Is more than five (5) years old and worth less than \$500.00.
- (g) *Nuisance vehicle.* A motor vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:
 - (1) A breeding ground or harbor for mosquitoes or other insects or a breeding ground or harbor for rats or other pests; or
 - (2) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height; or
 - (3) A point of collection of pools or ponds of water; or
 - (4) A point of concentration of combustible items such as gasoline, oil, other flammable or explosive materials including but not limited to boxes, paper, old clothes, rags, refuse, or any other combustible materials or objects of a like nature; or

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- (5) One which has parts thereof which fall and injure members of the public or one which may have parts which fall or be closed and become an area of confinement which may not be released for opening from the inside; or
 - (6) One which is so situated and located that there is a danger of the vehicle falling, rolling, turning over, or creating an unsafe movement such as unattended, blocked or jacked vehicles; or
 - (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or
 - (8) One which has parts thereof which are jagged or contain sharp edges of metal or glass; or
 - (9) Any other vehicle specifically declared a health or safety hazard or a public nuisance by the city council.

(Ord. No. 7298/17-40 , 5-15-17)

Sec. 9-2-163. Jurisdiction.

This article shall govern the removal and disposal of abandoned or junked motor vehicles on public grounds and private property within the city unless otherwise specified herein. However, this article shall govern the removal and disposal of abandoned or junked motor vehicles on city-owned property wherever located.

(Ord. No. 7298/17-40 , 5-15-17)

Sec. 9-2-164. Complaints.

Prior to an investigation to determine whether a motor vehicle is an abandoned or junked motor vehicle, a complaint must be submitted in writing with the appropriate city officer or employee. Nothing in this section or article shall preclude the city official from initiating his/her own complaint without it being in writing.

(Ord. No. 7298/17-40 , 5-15-17)

Sec. 9-2-165. Abandoned motor vehicles.

- (a) *Abandonment of motor vehicles prohibited.* It shall be unlawful for any person to abandon a motor vehicle on city-owned property and private property within the city and on city-owned property wherever located.
- (b) *Removal of abandoned motor vehicles.* The city may remove to a storage garage or area abandoned motor vehicles that are found to be in violation of this article. An abandoned motor vehicle may not be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the city council or a duly authorized city official or employee has declared the vehicle to be a health or safety hazard. Appropriate city officers and employees may, upon presentation of proper credentials, enter on any premises within the city ordinance-making jurisdiction at any reasonable hour in order to determine if any vehicles are health or safety hazards. The city may require a person requesting the removal of an abandoned motor vehicle from private property to indemnify the city against any loss, expense, or liability incurred because of vehicle's removal, storage, or sale.
- (c) *Notification and probable cause hearing.*
 - (1) Whenever a vehicle with a valid registration plate or registration is towed, the city shall immediately notify the last known registered owner of the vehicle of the following:
 - (i) Notice that the vehicle has been towed, along with a description of the vehicle;
 - (ii) Address where the vehicle is stored;

Commented [TNE33]: Clean up

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- (iii) The violation with which the owner is charged, if any;
 - (iv) The possible sale or other disposition of the vehicle;
 - (v) The procedure the owner must follow to have the vehicle returned to him/her; and
 - (vi) The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in North Carolina, notice shall be given to the owner within 72 hours. Notice shall be mailed to the owner's last known address unless the owner waives this notice in writing. In addition to written notice by mail, and if feasible, additional notice shall be given by telephone. Whether, or not, the owner is reached by telephone, notice shall be mailed to his last known address unless he/she or his/her agent waives the notice in writing.

- (2) Whenever a vehicle with neither a valid registration plate nor registration is towed, the city shall make reasonable efforts, including checking the vehicle identification number (VIN), to determine the last known registered owner of the vehicle and notify the owner as required by this article. Unless the owner has otherwise been given notice, it is presumed that the city has not made reasonable efforts, as required under this article, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at the least 10 days before the towing actually occurred; except, no pre-towing notice need be given if the vehicle impeded the flow of traffic or was otherwise jeopardizing the public welfare so that immediate towing was necessary.
 - (3) The owner or any person entitled to claim possession of the vehicle may regain possession of the motor vehicle by paying to the city all reasonable costs incidental to the removal and storage.
 - (4) The owner or any person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. The request shall be filed with the magistrate's office in Guilford County. The magistrate shall set the hearing within 72 hours of his/her receiving the request. The owner, the city official who requested the hearing if someone other than the owner, the tower, and the person who authorized the towing shall be notified of the time and place of the hearing. The rules of the General Statutes apply to any appeal.
- (d) *Disposal of abandoned motor vehicles.* After holding an abandoned motor vehicle for 30 days after the date of removal, the city may sell or dispose of the vehicle as follows:
- (1) If the vehicle appears to be worth less than \$500.00, the city may dispose of the vehicle as a junked motor vehicle as provided by this article. With the consent of the owner, the city may remove and dispose of a motor vehicle as a junked motor vehicle without regard to the value, condition or age of the vehicle and without holding it for a prescribed period of time.
 - (2) If the vehicle appears to be worth \$500.00 or more, the vehicle shall be sold at public auction. The city shall give 20 days' written notice of the sale to the registered owner at his last-known address, to each holder of a lien of record against the vehicle and to the state division of motor vehicles. Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date. The proceeds of the sale shall be paid to the finance officer of the city, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale and liens in that order. The remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the city for 60 days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within 60 days after the day of the sale, the funds shall be deposited in the city's general fund and the owner's rights in the vehicle are extinguished.
- (e) *Exceptions.* This article does not apply to any vehicle in an enclosed building, to any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the

operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

(f) *Junked motor vehicles.*

- (1) *Abandonment of junked motor vehicles prohibited.* It shall be unlawful for any person to abandon a junked motor vehicle on public grounds and on private property within the city or upon city-owned property wherever located.
- (2) *Removal of junked motor vehicles.* Junked motor vehicles found to be in violation of this article may be removed to a storage garage or area, but no such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the city council or a duly authorized city officer or employee finds 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:
 - (i) Protection of property values;
 - (ii) Promotion of tourism and other economic development opportunities;
 - (iii) Indirect protection of public health and safety;
 - (iv) Preservation of the character and integrity of the community; and
 - (v) Promotion of comfort, happiness, and emotional stability of area residents.

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

(g) *Notification and probable cause hearing.*

- (1) Whenever a vehicle with a valid registration plate or registration is towed, the city shall immediately notify the last known registered owner of the vehicle of following:
 - (i) A description of the vehicle;
 - (ii) The place where the vehicle is stored;
 - (iii) The violation with which the owner is charged, if any;
 - (iv) The possible sale or other disposition of the vehicle; and
 - (v) The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in this state, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether, or not, the owner is reached by telephone, notice shall be mailed to his last known address unless he/she or his/her agent waives the notice in writing.

- (2) Whenever a vehicle with neither a valid registration plate nor registration is towed, the city shall make reasonable efforts, including checking the vehicle identification number (VIN), to determine the last known registered owner of the vehicle and to notify him of the information as required by this article. Unless the owner has otherwise been given notice, it is presumed that the city has not made reasonable efforts, as required under this article, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least 10 days before the towing actually

occurred; except, no pre-towing notice need be given if the vehicle impeded the flow of traffic or otherwise jeopardized the public welfare so that immediate towing was necessary.

- (3) The owner or any other person entitled to claim possession of the vehicle may regain possession of the motor vehicle by paying to the city all reasonable costs incidental to the removal and storage.
- (4) The owner or any person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. The request shall be filed with the magistrate's office in Guilford County. The magistrate shall set the hearing within 72 hours of his/her receiving the request. The owner, the person who requested the hearing if someone other than the owner, the tower, and the person who authorized the towing shall be notified of the time and place of the hearing. Any decision by the magistrate may be appealed by either party to district court.
- (h) *Disposal of junked vehicles.* After holding a junked motor vehicle for 15 days, the city may destroy it or sell it at private sale as junk. Within 15 days after the final disposition of a junked motor vehicle, the city shall notify the state division of motor vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of as such. The notice shall contain as fully accurate a description of the vehicle as can be reasonably determined. The full proceeds of the sale of the junked vehicle shall be paid to the finance officer of the city, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale and liens, in that order. The remainder of the proceeds of sale, if any, shall be held by the city for 30 days after the day the vehicle is disposed of, the funds shall be deposited in the city's general fund, and the owner's rights in the vehicle are extinguished.
- (i) *Disposal of vehicle without plates or identification numbers.* If a junked motor vehicle does not display a current license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, the city may dispose of a junked motor vehicle under this article. The city may destroy the vehicle or sell it at private sale, without regard to value, after having held the vehicle for 48 hours. The proceeds shall be placed in the city's general fund.
- (j) *Exceptions.* This article ~~does not apply to the following:~~
 - (1) Any motor vehicle in the process of repair or restoration on property under the control of the owner of the vehicle or property under the control of the person repairing or restoring the vehicle. Visible evidence of repair or restoration shall be apparent on a monthly basis.
 - (2) Any motor vehicle that is used on a regular basis for business or personal transportation purposes.
- (k) *Nuisance vehicle unlawful; removal authorized.*
 - (1) 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.
 - (2) Upon investigation, proper officials may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined in this article, and order the vehicle removed in accordance with the provisions of this article.
- (l) *Enforcement remedies authorized; penalties for violation.*
 - (1) The city may secure injunctions, abatement orders and other appropriate equitable remedies to further ensure compliance as provided in [Section 1-1-4 of this Code and](#) G.S. 160A-175.
 - ~~(2) The A violation of this article section shall be punishable as a misdemeanor and in addition to, or in lieu of, remedies authorized in this section, article shall be punishable by a fine not to exceed \$500.00, or imprisonment for not more than 30 days.~~
 - ~~(23)~~ Any act constituting a violation of this [article-section](#) or a failure to comply with any of its requirements shall subject the offender to civil penalties ~~of \$50.00 for each day the violation~~

Commented [TNE34]: Clean up

Commented [TNE35]: Added this new language to conform with the new language in Sect. 1-1-4.

continues. If the offender fails to pay this penalty within 15 days after being cited for violation, the penalty may be recovered by the city in a civil action in the nature of debt in accordance with Section 1-1-4 of this Code and G.S. 160A-175.

- (34) Any one (1), all or any combination of the foregoing penalties and remedies may be used to enforce this [article](#)[section](#).

(Ord. No. 7298/17-40 , 5-15-17)

Secs. 9-2-166—9-2-180. Reserved.

ARTICLE I Abandoned Structure Code¹²

Sec. 9-2-191. How article known and cited.

This article shall be known as the "Abandoned Structure Code," may be cited as such and will be referred to herein as "this article."

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-192. Exercise of police powers; authority.

The city council hereby finds and declares that there exists within the city limits and its environs abandoned structures which are a health or safety hazard as a result of 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. In order to alleviate these unsafe and dangerous conditions for the health, safety, and welfare of the citizens of the City of High Point and its environs, a public necessity exists to exercise the police powers conferred upon the city for the repair, closing or demolition of such structures.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-193. Procedure for enforcement.

- (a) *Duty of inspector.* It shall be the duty of the inspector to examine abandoned structures located in the city and its environs where conditions described in section 9-2-192 exist for the purpose of locating and taking action with respect to such structures as appear to be a health or safety hazard.
- (b) *Notice of complaint.* If the inspection discloses health or safety hazards as described in this article, the inspector shall post a warning on the structure giving notice of its unsafe or dangerous conditions and cause to be served upon the owner of and parties in interest to the structure, a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than 10 nor more than 30 days after serving of said complaint.
- (c) *Hearing.* 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. Any person

¹²Cross reference(s)—Abandoned and junk motor vehicles, § 9-2-161 et seq.

Commented [TNE36]: Added this new language to conform with the new language in Sect. 1-1-4.

Commented [LAM37]: This contains a general provision criminalizing entire article. I noted the sections that may be able to be criminalized under S.L. 2021-138. To the extent these sections are not related to unsafe buildings, they cannot be criminalized as they would be adopted under Chapter 160D (or its predecessor in Chapter 160A).

desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

- (d) *Procedure after hearing.* After such hearing, if the inspector finds that a structure constitutes a health or safety hazard, he shall state in writing his findings of fact in support of such determination. In such case, the inspector shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, close or demolish the structure as necessary to correct the health or safety hazard within a specified period of time.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-194. Appeal.

An appeal to the board of adjustment may be taken from any decision or order of the inspector by any person aggrieved thereby or by any officer, board or commission of the city. Any appeal from the inspector to the board shall be taken within 10 days as prescribed by the rules of the board, and shall be taken by filing with the inspector and with the secretary of the board a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of notice of appeal, the inspector shall forthwith transmit to the board all the papers constituting the records upon which the decision appealed from was made.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-195. Securing, closing and demolition by the city.

If the owner fails to comply with an order of the inspector to repair, secure and close, or demolish, the inspector shall take one (1) or more of the following actions as necessary:

- (a) Secure the issuance of a warrant charging such owner with violation of this article;
- (b) Secure and close said structure;
- (c) Cause such structure to be repaired, altered or improved; or
- (d) Cause such structure to be demolished.

Subsections (b), (c) and (d) of this section shall not be exercised by the inspector until the city council by ordinance has ordered the inspector to proceed to effectuate such action.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-196. Lien on property.

The amount of the cost of such repair, alterations, improvements, vacating and closing or demolition ordered by the city council or by the inspector shall be a lien against the real property upon which such cost was incurred; said lien shall be filed, have the same priority and be collected or foreclosed upon in the same manner as is provided for assessments pursuant to article 10, chapter 160A, North Carolina General Statutes.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-197. Other unlawful actions.

- (1) No person shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of section 9-2-193 of this article.

(2) It shall be unlawful for the owner of any building upon whom a notice, complaint or order has been served, to sell, transfer, mortgage, lease or otherwise dispose of said building unless one of the following actions have been taken:

- (a) Compliance with the provisions of the notice, complaint or order, or
- (b) Furnish a copy of any notice, complaint or order to the transferee, lessee or mortgagee and give written notice to the inspector of said action.

(3) A violation of this section related to unsafe buildings as defined in G.S. 160D-1119 is punishable as a misdemeanor.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-198. Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisance and to cause their abatement by summary action or otherwise, or the enforcement of any other remedy or remedies provided or in other ordinances of laws.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-199. Conflicts with other provisions.

In the event any provision, standard or requirement of this article is found to be in conflict with any provision of any other ordinance or code of the city, 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 city and environs shall prevail.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-200. Validity.

If any section, subsection, sentence, clause, or phrase of this code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-201. Violations, penalty.

(a) It shall be unlawful for any owner of any structure to fail, neglect, or refuse or repair, alter or improve the same, or fail to vacate and close and remove or demolish the same, upon order of the inspector duly made and served as herein provided, within the time specified in the order, and each day that such failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any structure, with respect to which an order has been issued pursuant to section 9-2-193 of this article, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement or its vacating and closing, and each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.

(b) ~~The Any violation of provided for in this section related to unsafe buildings as defined in G.S. 160D-1119 is punishable as a misdemeanor. any provision of this article shall constitute a misdemeanor as provided by North Carolina General Statutes 14-4.~~

Commented [TNE38]: Based on Sect. 9-2-192, this section is likely related to unsafe buildings since the City would only place a notice or complaint under this article if the abandoned structure was a health and safety hazard. So PS recommends the city keep criminal enforcement as an option here in case someone fails to comply with civil enforcement.

Commented [LAM39]: This was the general provision criminalizing the entire article. Based on Sect. 9-2-192, this section is likely related to unsafe buildings since the City would only require an owner to repair, alter, improve, etc. if the abandoned structure is a hazard to healthy and safety. As a result, PS recommends that the city continue to criminalize this section.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

ARTICLE K *Trash, Debris, and Dilapidated Outbuildings Code*

Sec. 9-2-211. How article known and cited.

This article shall be known as "Trash, Debris, and Dilapidated Outbuildings Code" and may be cited as same and will be referred to herein as "this article."

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-212. Authority; exercise of police powers.

The city council hereby finds and declares that there exists within the city limits and its environs properties on which are stored trash, debris and materials and that there exists lots both vacant and improved which due to neglect have high grass, weeds, undergrowth, and other vegetation which may conceal filthy deposits, or harbor insects or any offensive matter or thing which is likely to adversely affect the health and safety of the residents of the community, and that there exists dilapidated outbuildings, sheds, and accessory structures and these conditions render such areas unsanitary or unsafe or dangerous and are detrimental to the health, safety, or morals or otherwise inimical to the welfare of the residents of the city and its environs. The city council further finds that public necessity exists to exercise the police powers of the city to cause that such trash, debris, and materials be removed or properly stored and that high grasses, weeds, undergrowth, and vegetation be cut and cleared and that such outbuildings, sheds, and accessory structures be repaired as to render them safe or demolished in the manner provided by this article as provided by North Carolina General Statutes.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-213. Purpose.

The purpose of this article is to arrest, prevent, and mitigate the hazards to health, safety, and general welfare of the residents of the city and its environs caused by trash, debris, the improper storage of materials, overgrown lots, and the existence of dilapidated outbuildings, sheds, and accessory buildings which create areas which harbor vermin, insects, and increase the hazard of fire or accident or other calamities.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-214. Jurisdiction.

The provisions of this article are applicable to all properties, whether improved or vacant land, which are located within the city limits or the extraterritorial jurisdiction as now or hereafter fixed.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-215. Definitions.

Certain abbreviations, terms, phrases, words, and their derivatives shall be construed as specified in this chapter. Terms, words, phrases, and their derivatives used but not specifically defined in this article shall have the meaning specifically defined in the North Carolina Building Code or the City of High Point's Minimum Housing

Commented [TNE40]: PS suggests decriminalizing this Article because there is not enough of a connection to unsafe buildings. We believe this Article was adopted under 160D Building Code Enforcement (or its predecessor statute- Chapter 160A) and is not related to unsafe buildings, which means it cannot be criminalized.

Code, and any terms, words, phrases, and their derivatives used but not specifically defined in either this article, the North Carolina Building Code, or the City of High Point's Minimum Housing Code shall have the meaning specifically defined in the City of High Point's Zoning Code.

- (a) *Apartment house* is any building, or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied as the home or residence of three (3) or more families living independently of each other in dwelling units.
- (b) *Building* shall mean that which is built or constructed an edifice or building of any kind, or any piece of artificially built up or composed of parts joined together in some definite manner. The term "building" shall be construed as if followed by the words "or part thereof."
- (c) *Common areas* shall mean all areas which were conveyed to a homeowner's association in a townhouse development, condominium, cooperatives, or planned unit development.
- (d) *Demolish* shall mean the demolition and removal of the entire building leaving the property free and clear of any debris and without holes or pockets which may retain water.
- (e) *Dwelling* shall mean any building or structure, or portion thereof, which is used, or designed or intended to be used for human habitation including living, sleeping, cooking, and eating.
- (f) *Dwelling unit* shall mean any room or group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.
- (g) *Extermination* shall mean the control and elimination of insects, rodents, or other pests eliminating their harborage places, by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the inspector.
- (h) *Fire damage* shall mean an action caused by a fire other than smoke damage.
- (i) *Garbage* shall mean the animal and vegetable refuse resulting from the handling, preparation, cooking, and consumption of food, including a minimum amount of liquid necessarily incidental thereto.
- (j) *Housing* shall mean any building, or structure, or part thereof, used and occupied for human habitation or intended to be so used, including any outhouses and appurtenances belonging thereto or usually associated therewith.
- (k) *High grass* shall mean any growth of grass or grasses in excess of one and one-half (1½) feet in height.
- (l) *Infestation* shall mean the presence, within or around a dwelling, of any harmful insects, rodents or other pests.
- (m) *Inspection office* shall mean the office of the director of inspections of the city.
- (n) *Inspector* shall mean the director of inspections and any other employee of the city in the inspections department who is designated by the director of inspections to enforce the provisions of this chapter.
- (o) *Multifamily house (building/structure)* means a building or portion thereof containing three (3) or more dwelling units, including tenement house, apartment house, or flat.
- (p) *Occupant* shall mean any person living, sleeping, cooking, or eating in, or having actual possession of a dwelling or rooming unit.
- (q) *Owner* is deemed to mean and include a holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.
- (r) *Parties in interest* shall mean all individuals, associations, partnerships, corporations, and others who have monetary interest in a dwelling and any who are in possession or control thereof either as agent

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of the owner, as executor, executrix, administrator, trustee administratrix, or guardian of the estate of the owner.

- (s) *Parties in possession* shall mean the occupant, tenant, lessee, or others who have the right to enter and use the premises for any purpose.
- (t) *Prohibited material* shall mean but not be limited to those listed as follows and includes items of the same group though not specifically listed:
 - (1) *Furniture and appliances (i.e.):*
 - Ranges
 - Refrigerators
 - Washing machines
 - Clothes dryers
 - Dish washers
 - Water heaters
 - Televisions
 - Furnaces, space heaters, wood stoves
 - Duct material
 - Sofas and/or chairs
 - Beds and/or bedding
 - Dressers
 - Tables
 - Pictures, lamps and accessories, etc.
 - (Note: Does not include lawn furniture)
 - (2) *Auto parts (i.e.):*
 - Tires and wheels
 - Engines
 - Transmissions and transaxles
 - Driveshafts
 - Rear ends
 - Front end assemblies
 - Any and all body parts
 - Frames (in whole or in part)
 - Exhaust pipes and mufflers/converter
 - (3) *Farm implements (i.e.)* (except those used in permitted farm operations):
 - Tractors and/or harvesters
 - Plows, harrows, tillers
 - Wagons and/or farm trailers
 - (4) *Inoperable lawn maintenance equipment (i.e.):*
 - Mowers
 - Tillers
 - (5) *Building materials and equipment (i.e.)* (unless stored for construction of a properly permitted structure or ongoing project):
 - Brick and block
 - Lumber
 - Metal/vinyl siding and/or material
 - Concrete or mortar mix

Paints and stains
Windows and/or doors
Roofing material
Siding, trim and/or gutters
Plumbing fixtures
Pipe and pipe fittings
Cement/mortar mixers
Scaffolding
Paint spraying equipment

- (u) *Public authority* shall mean any public authority for housing or any officer who is in charge of any department or branch of the government of the city, Guilford County, or State of North Carolina relating to health, fire, building regulations, or other activities concerning dwellings or buildings in the city.
- (v) *Public space* shall mean that space within any multifamily housing which is open to common use by the occupants and others visiting the premises.
- (w) *Residential building* shall mean any building or structure, or portion thereof, which is used, or designed or intended to be used for human habitation including living, sleeping, cooking, or eating or any combination thereof.
- (x) *Story* shall mean that part of a building comprised between a floor and the floor or roof next above.
- (y) *Structure* shall mean that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "structure" shall be construed as if followed by the words, "or part thereof."
- (z) *Tenant* shall mean any person who alone or jointly or severally with others occupies a residential building under a lease or holds a legal tenancy in a building.
- (aa) *Trash and/or debris* shall mean combustible and noncombustible waste materials except garbage, including but not limited to ashes, wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, excelsior, foam, rubber, leather, plastic, plastic containers, tree branches, yard trimmings, leaves, chemical containers, chemical matter, metal cans, metals, mineral matter, glass, glass bottles, crockery, dust, and dirt.
- (bb) *Weeds* are uncultivated plants which grow in profusion and for the purpose of this article may not be allowed to grow more than one and one-half (1½) feet in height.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-216. Enforcement agency.

The director of inspections is hereby designated the officer to exercise, by and through his duly appointed inspector, the powers prescribed in this article.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-217. Consulting agency.

The inspector shall have the authority to request the advice and assistance of the High Point Planning and Zoning Commission, the Housing Authority of the City of High Point, High Point Fire Department, High Point Police

Department, Guilford County Health Department, or any other public authority he may deem appropriate, in exercising the powers of this article.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-218. Powers.

The inspector shall determine that a violation of this article exists if, based on his inspection of the premises, any one (1) or more of the following conditions are observed:

- (a) Trash and/or debris on the property in such quantity that it is injurious to the health, safety, or morals occupants of the property or of neighboring properties or other residents of the city or its environs.
- (b) Prohibited materials are stored outside of the dwelling structure or accessory structure(s).
- (c) Property on which high grass, weeds, or undergrowth have been allowed to grow and which may conceal filthy deposits or harbor insects or vermin.
- (d) Accessory structure(s) which by reason of defects in materials or method of construction, or deterioration are dangerous or injurious to the health, safety, or morals of occupants of the property or of neighboring properties or other residents of the city or its environs.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-219. Administrative liability.

Except as may otherwise be provided by statute or local law or ordinance, no officer, inspector, or employee of the municipality charged with the enforcement of this article shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. No person who institutes or assists in the prosecution of a civil or criminal proceeding under this article shall be liable to damages hereunder unless he acted with malice and without reasonable grounds for believing that the person accused was guilty of any unlawful act or omission.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-220. Procedure for enforcement.

- (a) *Preliminary investigation.* The inspector shall initiate a preliminary investigation of the condition of properties when a petition charging a violation of this article is received from a public official, the owner of property deemed to be in violation, or from five (5) residents of the jurisdiction or whenever it appears to the inspector that a basis for such investigation exists.
- (b) *Notice of complaint and order.* If his preliminary investigation discloses that violations of this article exist, the inspector shall issue and cause to be served upon the owner, parties in possession, and parties in interest in the property a complaint and order stating his findings of violations and ordering that corrective actions be taken to correct the violations. The inspector shall state in his complaint and order the nature of the corrective actions required and the date by which the violations must be corrected. The time given to correct violations shall be not more than 60 days nor less than 30 days, unless there exists such immediate hazards that in the opinion of the inspector must be corrected in such lesser time so as to protect the health and safety of the residents of the jurisdiction.
- (c) *Extensions of time to correct violations.* If the property owner, occupant, or parties in interest request additional time to correct the violations the inspector may grant one (1) or more extensions, said extensions

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(Supp. No. 4)

not to exceed a total of 90 days in which to correct the violations provided that substantial progress is being made in correcting the violations or extenuating circumstances exist which prevent the owner from correcting the violations in the time granted.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-221. Appeal.

An appeal to the housing board of appeals may be taken from any decision or order of the inspector by any person aggrieved thereby or by any officer, board, or commission of the city. Any appeal from the inspector to the board shall be taken within 10 days as prescribed by the rules of the housing board of appeals, and shall be taken by filing with the inspector and with the secretary of the commission a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of notice of appeal, the inspector shall forthwith transmit to the board all the papers constituting the record upon which the decision appealed from was made.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-222. Petition to superior court.

General statute reference needed for grounds for appeal if any.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-223. Service of complaints, notices, orders, etc.

Complaints, notices, or orders issued by the inspector pursuant to this article shall be served upon persons either personally or by registered or certified mail; but, if the whereabouts of any person is unknown and same cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make an affidavit to that effect, then the serving of such complaint, notice or order upon such person may be made by publishing the same once a week for two (2) consecutive weeks in a daily newspaper published in the city, service being deemed complete upon the date of the last publication. A copy of any notice, complaint, or order served by publication shall be posted in a conspicuous place on the premises affected by the notice, complaint, or order on or before the last date of publication.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-224. Further powers.

The inspector shall have such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including (without limiting the generality of the foregoing), the following powers in addition to others herein granted:

- (a) To enter upon lands and within buildings for the purpose of making examinations and investigations, provided that such entries shall be made in such lawful manner as to cause the least possible inconvenience to persons in possession;
- (b) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purpose of this article;
- (c) To administer oaths, affirmations, and to examine witnesses and receive evidence;

- (d) To delegate any of his functions and powers under this article to such officers and agents as he may designate.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-225. Other unlawful actions.

No person shall remove or permit the removal of any complaint, notice, or order posted in accordance with the provisions of section 9-2-223 and section 9-2-220 of this article.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-226. Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their abatement by summary action or otherwise, and the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-227. Conflicts with other provisions.

In the event any provision, standard, or requirement of this article is found to be in conflict with any provision of any other ordinance or code of the city, 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 city and environs shall prevail.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-228. Validity.

If any section, subsection, sentence, clause, or phrase of this article is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article.

(Ord. No. 7206/16-26 , § 4, 5-16-16)

Sec. 9-2-229. Violations and penalties.

- (a) It shall be unlawful for any owner or party in possession to fail, refuse, or neglect to correct violations of this article upon order by the inspector duly made and served as herein provided, within the time specified in the order or such time as extended by the inspector, and each day that any failure, refusal, or neglect to comply with the order continues shall constitute a separate and distinct offense.
- (b) The city shall have the power to impose fines and civil penalties for violations of its ordinances~~this article~~ and may secure injunctions and abatement orders to further insure compliance with this article. Further, the city may adopt ordinances authorizing the director of inspections or his designee to take such actions as deemed necessary to correct violations of this article and may assess the costs of such actions to the owner and may place liens on the property for any unpaid costs or assessments.
- (c) ~~Methods The City may of imposing~~ fines and civil penalties for violation of this article in accordance with Section 1-1-4 of this Code~~include:~~

Commented [TNE41]: Cleaning this up to conform with the new language in Section 1-1-4 of the Code. Everything below is handled in Section 1-1-4.

~~(1) Misdemeanor (G.S. 160A-175(b)):~~

- ~~a. A violation of this article shall be a misdemeanor as provided by G.S. 14-4 and shall be subject to a fine and/or imprisonment as prescribed by G.S. 14-4.~~
- ~~b. Any person, firm, or corporation failing to comply with an order to correct a violation or continuing to violate this article in the manner named in the order within 10 days after the date stated in the order shall also be subject to a penalty of \$500.00. Each day that a violation continues shall constitute a separate offense.~~

~~(12) Civil penalty (G.S. 160A-175(c)). Any person, firm, or corporation failing to pay the penalty for failing to comply with a provision of this article within a 10-day period shall be subject to a civil penalty of \$50.00. Each day beyond the 10-day period shall create a new offense. This penalty shall be recovered by the city in a civil action in the nature of debt.~~

~~(23) Equitable remedy (G.S. 160A-175(d)). Provisions of this article 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. It shall not be a defense to the application of the city for applicable relief that there is an adequate remedy at law.~~

~~(24) Injunction and order of abatement (G.S. 160A-175(e)). Provisions of this article may be enforced by injunction and order of abatement. The general court of justice shall have jurisdiction to issue such orders. 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 city may execute the order of abatement. The city shall have a lien on the property for the cost of executing an order of abatement in the form of a mechanic's or materialman's lien.~~

~~(45) Combination of authorized remedies (G.S. 160A-175(f)). This article may be enforced by any one (1), all, or a combination of the civil remedies authorized and prescribed under the provisions of G.S. 160A-175.~~

- (d) *Method of correcting violations of this article and assessing costs.* Upon adoption of an ordinance by city council the director of inspections or his designee shall have the power to immediately take all necessary and appropriate actions to correct violations of this article and shall assess the costs of such actions as a lien against the real property upon which such costs were incurred. Said lien shall be filed and shall have the same priority and be collected or foreclosed upon in the same manner as is provided for assessments pursuant to article 10, chapter 160A, North Carolina General Statutes.

- (1) The director of inspections may solicit bids and contract with persons or firms for the furnishing of labor, materials, equipment, and/or services necessary to correct violations of this article.
- (2) The director of inspections may authorize persons or firms to enter upon the lands of the owner for the purpose of correcting violations of this article and may authorize persons or firms to remove and dispose of prohibited materials, to demolish and remove dilapidated outbuildings, and to mow, clear, and remove weeds and undergrowth.

(Ord. No. 7206/16-26, § 4, 5-16-16)

Commented [TNE42]: PS recommends decriminalizing for the reasons stated above.

Title 10 TRANSPORTATION AND TRAFFIC

CHAPTER 1 Traffic Regulations¹³

ARTICLE B Enforcement and Obedience to Traffic Regulations

Sec. 10-1-11. Required obedience to traffic chapter.

It is unlawful-a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.

(Code 1958, Sec. 19-13)

Commented [TNE43]: This section criminalized the entire chapter, so PS recommends decriminalizing this section and criminalizing specific sections instead in order to fully comply with the new legislation.

Sec. 10-1-12. Obedience to police officials.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or any other person designated by the police to direct traffic which relates to the regulation or control of traffic consistent with the laws of the state and the ordinances of the city.

Commented [LAM44]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-114.1.

Sec. 10-1-13. Persons propelling pushcarts or riding animals to obey traffic regulations.

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

(Code 1958, Sec. 19-15)

Sec. 10-1-14. Use of coasters, roller skates and similar devices restricted.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by ordinance of this city.

(Code 1958, Sec. 19-16)

Commented [LAM45]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

¹³Cross reference(s)—Visibility at intersections, § 6-1-9.

State law reference(s)—Authority of cities to regulate traffic, G.S. 160A-300; restrictions on local authorities, G.S. 20-169; operation of motor vehicles and rules of the road, G.S. 20-138 et seq.; motor vehicles generally, G.S. 20-1 et seq.

Sec. 10-1-15. Public employees to obey traffic regulations.

The provisions of this chapter apply to the driver of any vehicle owned by or used in the service of the United States government, this state, or any political subdivision of this state, except persons and vehicles actually engaged in street surface work, including street cleaning, and in construction, repairs or maintenance, but not while traveling to or from such work, and it shall be unlawful for any said driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by state statute.

(Code 1958, Sec. 19-17)

Sec. 10-1-16. Authorized emergency vehicles.

- (a) When the driver of an authorized emergency vehicle is lawfully displaying a lighted red or blue light and, is lawfully sounding a siren, and the nature of his official duties require it, he may:
 - (1) Park without regard to the provisions of this chapter;
 - (2) Turn without regard to the provisions of this chapter;
 - (3) Exceed the speed limits fixed by this chapter; provided, that ambulances may not exceed any speed limit by more than 10 miles per hour;
 - (4) Drive through a funeral procession;
 - (5) Proceed past a red signal indication or stop sign, but only after slowing down as may be necessary for safe operation.
- (b) The exemption 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, and when the vehicle is equipped with at least one (1) lighted lamp displaying a red or blue light visible under normal atmospheric conditions from a distance of 500 feet to the front of such 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 reckless disregard for the safety of others.

Sec. 10-1-17. Operation of vehicles on approach of authorized emergency vehicles.

Upon the immediate approach of a police or authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state:

- (1) The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the righthand edge or curb of a two (2) way roadway and the lefthand edge or curb of a one (1) way roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
- (2) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(Code 1958, Sec. 19-19)

Commented [LAM46]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-157

Sec. 10-1-18. Snow removal.

It shall be unlawful for any person to allow a motor vehicle to remain parked on a street where official traffic control devices are in place indicating no parking during snow removal operations. Any vehicle parked in violation of this section or parked in any manner so as to obstruct traffic during snow removal operations may be impounded as provided in section 10-1-54.

Commented [LAM47]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-19. Traffic accident studies.

Whenever the accidents at any particular location become numerous, it shall be the duty of the director of transportation to conduct studies of such accidents and recommend remedial measures for the improvement of traffic flow.

Sec. 10-1-20. Traffic accident reports.

The police department shall maintain a suitable system of filing traffic accident reports. Such reports shall be available for the use and information of the director of transportation.

Sec. 10-1-21. Emergency and experimental regulations.

- (a) The director of police services by and with the approval of the director of transportation is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances of this city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than 90 days.
- (b) The director of transportation may test traffic control devices under actual conditions of traffic.

Secs. 10-1-22—10-1-30. Reserved.

ARTICLE C Traffic Control Devices

Sec. 10-1-31. Placement and maintenance of traffic control devices.

- (a) The director of transportation has the duty to place and maintain official traffic control devices as required by this chapter. In the event that it becomes necessary for the regulation of traffic or the safety of pedestrian, the director of transportation shall designate and make effective the location of official traffic control devices upon a determination by him:
 - (1) If such a device is to be installed at a particular location, that its installation is necessary in order to control traffic congestion in the interest of public safety;
 - (2) If such a device is to be moved or removed from a particular location, that the device is no longer required at such location for control of traffic congestion in the interest of public safety.
- (b) Each location of an official traffic control device shall be compiled in traffic schedules, approved by city council and retained permanently in the office of the director of transportation.

Cross reference(s)—Traffic schedules adopted, Sec. 10-1-291.

Sec. 10-1-32. Manual and specifications for traffic control devices.

All traffic control signs, signals, and devices shall conform to the most recent edition of the Manual of Uniform Traffic Control Devices for Streets and Highways as adopted by the North Carolina Department of Transportation. All signs, signals and pavement markings required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the city. All traffic control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic control devices.

(Code 1958, Sec. 19-22)

Sec. 10-1-33. Obedience to official traffic control devices.

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this chapter, subject to the regulations governing the driver of an authorized emergency vehicle in this chapter. Any violation of this section is punishable as a misdemeanor.

Commented [TNE48]: Confirm with Brian Beasley that this should be criminalized and ask if a "traffic control device" is defined by the police department (we do not see one in the Code) to see if stop signs, etc., are included.

Sec. 10-1-34. Traffic control signal legend.

Where traffic is controlled by an official traffic signal displaying different colored indications successively, the meanings of the indications are as follows:

(1) *Vehicles.*

- a. *Circular green indication.* A person operating a vehicle approaching or facing a circular green indication may proceed straight through or turn right or left unless an official traffic control device prohibits such movements. But vehicles, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or adjacent crosswalks at the time such signal is exhibited.
- b. *Green arrow indication.* A person operating a vehicle approaching or facing a green arrow indication may make only that movement indicated by such arrow from the designated lane with explicit right-of-way over those vehicles and pedestrians except those vehicles and pedestrians lawfully within the intersection or adjacent crosswalks at the beginning of the green arrow indication.
- c. *Green arrow in combination with another indication.* A person operating a vehicle approaching or facing a green arrow in combination with another indication may enter the intersection only to make the movement indicated by the arrow or such other movements as permitted by the other indication shown at the same time. Vehicles, including turning vehicles, shall yield the right-of-way to other vehicles and pedestrians lawfully within the intersection or adjacent crosswalks at the beginning of such indication. At the termination of the arrow indication, the explicit right-of-way designated by the arrow is relinquished and traffic shall comply with the other signal indications.
- d. *Yellow or caution indication.* All persons operating a vehicle approaching or facing a yellow indication are warned that the related movements associated with the green indication have been terminated or that a red indication will be exhibited immediately.

The yellow indication requires the vehicle to stop before the nearest crosswalk or stop bar at the intersection, but if the stop cannot be made safely or if vehicles are lawfully within the intersection at the beginning of the yellow indication, they may cautiously proceed through the intersection.

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- e. Red indication. Any person operating a vehicle facing or approaching a red indication shall stop before the nearest stop bar or crosswalk or, if none, before entering the intersection and shall remain stopped until an indication to proceed is exhibited except as indicated below in section 10-1-11, Right Turn on Red Permitted.
- (2) *Pedestrians.* Whenever special pedestrian control signals exhibiting the words "Walk" or "Don't Walk" are in place such signals shall indicate as follows:
- a. "Walk" indication, continuously illuminated lunar white. Pedestrians facing such signal indication may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.
 - b. Flashing "Walk" indication (lunar white). Warns that there is a possible conflict of pedestrians and vehicles. Pedestrians facing such flashing "Walk" indication may proceed across the intersection in the direction of the indication.
 - c. "Don't Walk" indication, continuously illuminated portland orange. Pedestrians facing such an indication shall not enter the roadway in the direction of the indication.
 - d. Flashing "Don't Walk" indication, portland orange. Pedestrians facing such an indication shall not start to cross the roadway in the direction of the indication but any pedestrian who has partially completed his crossing during the "Walk" indication shall proceed to the sidewalk or safety zone.
 - e. Pedestrians crossing roadways at intersections which are regulated by separate pedestrian signals shall obey the instruction of the pedestrian signals.
 - f. Pedestrians crossing roadways at intersections which are not regulated by separate pedestrian signals shall obey the indication of the signal facing vehicular traffic moving in the same direction as such pedestrian except when the sole vehicular green indication is a turn arrow or yellow indication. Pedestrians shall not start to cross the roadway when a green turn arrow or yellow indication is exhibited to vehicles.
- (3) *Placing signals.* The vehicular and pedestrian traffic signals described in this section shall be placed as designated in article P, schedule 1 and schedule 10 respectively.

Sec. 10-1-35. Flashing signals.

Where traffic is controlled by an official traffic control signal, flasher or combination of flasher and another traffic control device exhibiting flashing colored indications, the meaning of such flashing colored indication shall be as follows:

- (1) *Flashing red or "STOP."* A person driving a vehicle approaching or facing the signal must come to a complete stop before entering the nearest crosswalk at an intersection or at another point if indicated by a stop line.
- (2) *Single flashing yellow or "CAUTION."* A person driving a vehicle approaching the signal must proceed through the intersection with caution.
- (3) *Single or dual yellow or "CAUTION" in school areas.* Whenever the dual flashing yellow signal lights are installed in school areas it shall be unlawful to operate a motor vehicle in the area controlled thereby at a speed greater than that displayed on the speed lens or signs associated with said flashing lights.
- (4) *Placing flashers.* The flashing signals described in this section shall be placed as designated in article P, schedule 2.

Sec. 10-1-36. Display of unauthorized signs, signals or markings.

- (a) No person shall place, maintain or display upon or in view of any highway an unauthorized sign, signal, marking or device which purports to be or is an 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 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 street or highway any traffic sign or signal bearing thereon any commercial advertising.
- (c) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the director of transportation is hereby empowered to remove the same or cause it to be removed without notice.
- (d) No person shall sell or offer for sale any traffic control device to be used on any street or highway in the city which does not conform to the requirements of this chapter.

(e) Any violation of this section is punishable as a misdemeanor.

Commented [LAM49]: PS suggests criminalizing and Brian Beasley says he is okay with criminalizing.

Sec. 10-1-37. Tampering with official traffic control devices or railroad signs or signals.

It shall be unlawful for any person without lawful authority to alter, remove or tamper with an official traffic control device or railroad signal. A violation of this section is punishable as a misdemeanor.

Commented [LAM50]: PS suggests criminalizing and Brian Beasley says he is okay with criminalizing.

Sec. 10-1-38. Avoidance of official traffic control devices.

It shall be unlawful to drive across a sidewalk or through the driveway of a parcel of property for the purpose of avoiding an official traffic control device. A violation of this section is punishable as a misdemeanor.

Commented [LAM51]: PS suggests criminalizing and Brian Beasley says he is okay with criminalizing.

Sec. 10-1-39. Reserved.

Editor's note(s)—Ord. No. 6507/07-102, § 1, adopted Nov. 19, 2007, deleted § 10-1-39, which pertained to play streets.

Sec. 10-1-40. Crosswalks and safety zones.

The director of transportation is hereby authorized:

- (1) To designate and maintain, by appropriate devices, marks, or lines upon surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.
- (2) To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

Sec. 10-1-41. Traffic lanes.

- (a) The director of transportation is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.
- (b) Where such 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.

Commented [LAM52]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-146, 148.

Secs. 10-1-42—10-1-50. Reserved.

PART II - CODE OF ORDINANCES
Title 10 - TRANSPORTATION AND TRAFFIC
CHAPTER 1 - Traffic Regulations
ARTICLE D Powers and Duties of the Police Department

ARTICLE D Powers and Duties of the Police Department

Sec. 10-1-51. Duties of the police department.

It is the duty of the law enforcement officers of this municipality to enforce all of the provisions of the chapter and all of the state motor vehicle laws.

(Code 1958, Sec. 19-31)

Sec. 10-1-52. Traffic regulation and pedestrian safety.

In the event that it becomes necessary for the regulation of traffic or the safety of pedestrians, the law enforcement officers of the city may direct traffic as required without regard to other provisions of this chapter. No person may refuse to comply with a lawful order of a law enforcement officer, when the order is given under the authority of this section.

Commented [LAM53]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-114.1

Sec. 10-1-53. Street and sidewalk obstructions.

It is the duty of the law enforcement officers of this municipality to take all reasonable measures to prevent the obstruction of streets and sidewalks.

(Code 1958, Sec. 19-34)

Sec. 10-1-54. Impounding of vehicles.

- (a) The following enumerated sections have been enacted for the protection of the public health, to afford maximum fire protection, and to alleviate dangerous traffic congestion:
- (1) The section prohibiting the parking of a vehicle within 15 feet of a fire hydrant.
 - (2) The section prohibiting the parking of a vehicle between the hours of 1:00 a.m. and 6:00 a.m.
 - (3) The section prohibiting the parking of a vehicle in front of or in the entrance to a public or private alley.
 - (4) The section prohibiting the parking of a vehicle in commercial and passenger loading zones and established for the purpose of alleviating dangerous traffic congestion.
 - (5) The section prohibiting the parking of a vehicle in special traffic lanes during specified time periods and established for the purpose of alleviating dangerous traffic congestion.
 - (6) The apparent abandonment of vehicles on the streets within the fire limits of the city, or on property owned or operated by the city, for a period of 48 hours or within any other section of the city for a period of three (3) days.
 - (7) The parking of a vehicle within 25 feet of a street intersection in violation of the General Statutes of North Carolina.
 - (8) Section 10-1-156 prohibiting parking in certain places and under certain conditions.

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- (9) At any place where pavement markings or signs indicate that stopping, standing or parking is prohibited.
- (10) The section prohibiting the parking or driving of vehicles upon medians.
- (11) Law enforcement officers of the city or other city officials designated by the director of police services shall impound or cause to be impounded any vehicle or vehicles found parked on the streets, alleys, or rights-of-way or off-street parking facilities of the city in violation of those sections of this chapter heretofore set forth in this section.
- (b) In order to carry out the intent of this chapter, the law enforcement officers or designated officials are hereby authorized, and it shall be the duty of said officers or officials to either tow and store such vehicles in a suitable place provided by the city or to make arrangements with wrecker companies who have entered into a contract with the city to tow any vehicle impounded by authority of this chapter to its place of business and to store such vehicle until the owner, or person entitled to the possession thereof claims such vehicle. All costs incident to towing and storage shall be paid by the owner or person entitled to the possession thereof. The costs of towing and storing such vehicle shall be as fixed from time to time by contract between the city and wrecker company. In the event the owner, or person in possession, of the vehicle should appear after the law enforcement officer has called for towing equipment and before such towing equipment has performed any labor incident to the removal of the vehicle a fee less than the full towing fee may be charged as fixed from time to time by contract between the city and the wrecker company. When any work has been performed incident to removal, the full towing fee may be charged. In the event the city should operate towing storage service, any fees collected by the city under the provisions of this section shall be used for the enforcement of this chapter and shall be paid into the general fund of the city. The charges provided for in this section are for services and shall be in addition to any penalty or costs provided for violation of city traffic ordinances. Notice shall be sent to owner (see section 10-1-198).
- (c) Notification shall be sent to the owner of any vehicle towed and impounded as provided in section 10-1-198.
- (d) Notwithstanding the provisions of this section, the city manager may, enter into an exclusive contract with one (1) or more persons engaged in the towing and storage of motor vehicles, to remove the vehicles described herein from the public streets and alleys and other public places under the control of the city on such terms and conditions as may be mutually agreed upon. The contract so made shall be in writing; shall specify the charges to be made for towing and storage and shall require the person entering into the contract for the towing and storage of such vehicles to perform the service in a manner satisfactory to the city manager and shall provide for the forfeiture of the contract in the event of a violation of any of the provisions of the contract of any other rules or regulations promulgated pursuant to it or of any subsection of this section which may be incorporated in and made a part of the contract. The contract shall further provide that the city shall not be obligated to the person undertaking the towing and storage of such vehicles for any damages or charges which may be incurred in the performance of the obligation assumed by him but that charge shall be collected solely from the owner of the vehicle involved.

(Code 1958, § 19-41)

Cross reference(s)—Impoundment of illegally parked vehicles, § 10-1-196 et seq.

Sec. 10-1-55. 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 city any vehicle which has been impounded pursuant to the provisions of this Code except as authorized by police officials in compliance with provisions as established by the director of public services.

Secs. 10-1-56—10-1-60. Reserved.

Commented [LAM54]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 14-72.

PART II - CODE OF ORDINANCES
Title 10 - TRANSPORTATION AND TRAFFIC
CHAPTER 1 - Traffic Regulations
ARTICLE E Speed Regulations

ARTICLE E Speed Regulations

Sec. 10-1-61. State speed laws applicable.

The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within this city, except as this article, as authorized by state law, hereby declares and determines upon the basis of engineering and traffic investigation that certain speed regulations shall be applicable upon specified streets or in certain areas, in which event it shall be unlawful for any person to drive a vehicle at a speed in excess of any speed so declared in this article when signs are in place giving notice thereof.

(Ord. No. 86-18A, § 1, 6-5-86)

Commented [LAM55]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-141.

Sec. 10-1-62. Decrease, increase of state law maximum speed.

It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by state law upon the streets or portions of streets described in article P, section 10-1-291(3), is (a) greater than is reasonable or safe under conditions found to exist thereon, or (b) is less than is necessary for safe and efficient operation of vehicles thereon; and it is hereby declared that the maximum speed upon those streets or portions of streets designated herein shall be as specified herein at times designated when signs are erected giving notice thereof.

(Ord. No. 86-18A, § 1, 6-5-86)

Sec. 10-1-63. Regulation of speed by traffic signals.

The city traffic engineer is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable at intersections or on streets or portions thereof and shall erect appropriate signs giving notice thereof.

(Ord. No. 86-18A, § 1, 6-5-86)

Sec. 10-1-64. Maximum speed limits.

It shall be unlawful for any person to operate a vehicle on certain city streets in the state highway system in excess of speeds established and set out under article P, section 10-1-291(3).

(Ord. No. 86-18A, § 1, 6-5-86)

Commented [LAM56]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-141.

Secs. 10-1-65—10-1-70. Reserved.

ARTICLE F Turning Movements

Sec. 10-1-71. Required position and method of turning at intersections.

The driver of a vehicle intending to turn at an intersection shall do as follows:

- (1) *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 or in the designated right turn lane.
- (2) *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.
- (3) *Left turns on other than two-way roadway.* At any intersection where traffic is restricted to one direction on one (1) or more 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 for 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 lefthand lane lawfully available to traffic moving in such direction upon the roadway being entered.

(Code 1958, § 19-49)

Commented [LAM57]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-153, 154, 158.

Sec. 10-1-72. Authority to place and obedience to turning markers.

- (a) The director of transportation is hereby authorized to place markers, buttons, signs, or other traffic control devices, within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be traveled as so indicated may conform to or be other than as prescribed by law or ordinance.
- (b) 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.

Commented [LAM58]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-153.

Sec. 10-1-73. No left turn.

When official traffic control devices are in place prohibiting left turns, it shall be unlawful to make a left turn from the streets designated in article P, section 10-1-291(4)a.

Commented [LAM59]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-153.

Sec. 10-1-74. No right turn.

When official traffic control devices are in place prohibiting right turns, it shall be unlawful to make a right turn from the streets designated in article P, schedule 4b.

Commented [LAM60]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-153.

Sec. 10-1-75. No turn.

When official traffic control devices are in place prohibiting any turn, it shall be unlawful to make a turn at the intersections designated in article P, schedule 4e.

Commented [LAM61]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-153.

Sec. 10-1-76. U-turns and turning around.

When official traffic control devices are in place it shall be unlawful to make a U-turn at any location designated in article P, schedule 4d.

Commented [LAM62]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-153.

Sec. 10-1-77. Right turn on red permitted.

- (a) Any vehicle, after coming to a complete stop, before entering the intersection, for a red indication facing the vehicle, may, unless prohibited by an official traffic control sign, make a right turn after yielding to pedestrians and other vehicles lawfully in a roadway at the intersection when the signal is first exhibited.
- (b) When official traffic control devices are in place prohibiting such turns, it shall be unlawful to make a right turn on red at the intersections designated in article P, schedule 4c.

Commented [LAM63]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-158.

Secs. 10-1-78—10-1-90. Reserved.

ARTICLE G One-Way Streets

Sec. 10-1-91. One-way streets.

When official traffic control devices are in place indicating one-way streets, it shall be unlawful to drive a vehicle on the streets or parts of streets in a direction other than the one indicated in article P, schedule 5.

Commented [LAM64]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-165.1.

Sec. 10-1-92. Driving in restricted lanes.

When official traffic control devices are in place indicating that a roadway lane is restricted to a certain vehicular movement in one (1) direction during one (1) period and the opposite direction during another period of the day, it shall be unlawful to drive contrary to the indication of the official control devices as designated in article P, schedule 6.

Commented [LAM65]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-146.

Secs. 10-1-93—10-1-100. Reserved.

ARTICLE H Stop and Yield Intersections

Sec. 10-1-101. Stop intersections.

- (a) When official traffic control devices are in place indicating stop intersections, it shall be unlawful to drive a vehicle into the intersection from the street indicated to stop without first bringing the vehicle to a complete stop and yielding the right of way to all traffic approaching on the intersecting streets.
- (b) Locations of those intersecting streets which traffic must stop are designated in article P, schedule 8.

Commented [LAM66]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-158.

Sec. 10-1-102. Yield intersections.

- (a) When official traffic control devices are in place indicating yield right of way intersections, it shall be unlawful to drive a vehicle into the intersections without first slowing down to a speed reasonable for existing

Commented [LAM67]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-155.

conditions and shall yield the right of way to any pedestrian lawfully within the intersection or any vehicle approaching on the intersecting street which is close enough to constitute an immediate hazard.

- (b) Locations of those intersecting streets which traffic must yield right of way are designated in article P, schedule 9.

Sec. 10-1-103. Emerging from alley, driveway or building.

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

(Code 1958, Sec. 19-63)

Commented [LAM68]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-173.

Secs. 10-1-104—10-1-110. Reserved.

ARTICLE I Miscellaneous Driving Rules

Sec. 10-1-111. Obedience to signal indicating approach of train.

- (a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
- (1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
 - (2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
 - (3) A railroad train approaching within approximately 1500 feet of the highway grade crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing is an immediate hazard;
 - (4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
- (b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

(Code 1958, Sec. 19-64)

Cross reference(s)—Railroads, Sec. 10-1-301 et seq.

Commented [LAM69]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-142.1.

Sec. 10-1-112. Following fire apparatus prohibited.

The driver of any vehicle other than one on official fire call shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(Code 1958, Sec. 19-65)

Commented [LAM70]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-157.

Sec. 10-1-113. Crossing fire hose.

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

(Code 1958, Sec. 19-66)

Commented [LAM71]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-157.

Sec. 10-1-114. Driving through funeral or other processions.

No vehicle may be driven through a funeral or other authorized procession while they are in motion except fire department vehicles, police patrols and authorized ambulances, and only if the same are responding to calls.

(Code 1958, Sec. 19-67)

Commented [LAM72]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-157.1.

Sec. 10-1-115. Drivers in a procession.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as close as is practicable and safe.

(Code 1958, Sec. 19-68)

Commented [LAM73]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-157.1.

Sec. 10-1-116. Vehicle shall not be driven on a sidewalk.

The driver of a vehicle shall not drive within any sidewalk area except at a permanent or temporary driveway.

(Code 1958, Sec. 19-69)

Commented [LAM74]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-160.

Sec. 10-1-117. Limitations on backing.

The driver of a vehicle shall not back the same unless the movement can be made with reasonable safety and without interfering with other traffic.

(Code 1958, Sec. 19-70)

Commented [LAM75]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-154(a).

Sec. 10-1-118. Opening and closing vehicle doors.

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

(Code 1958, Sec. 19-71)

Commented [LAM76]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-119. Entering intersections or crosswalks.

No driver shall move his vehicle across an intersection, or a marked crosswalk, unless he knows that there is sufficient space on the other side of the intersection, or crosswalk, to accommodate his vehicle without

Commented [LAM77]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-154(a).

obstructing the passage of other vehicles, or pedestrian although a traffic control signal may be indicating his right to proceed.

(Code 1958, Sec. 19-72)

Sec. 10-1-120. Moving cars from parked positions.

Parked cars shall move out in the direction headed, or if they are parked at an angle with the curb, they shall back out at that angle until they have cleared the other cars and shall then proceed in the direction in which they are most nearly headed, but not until movement can be made in safety and without interfering with the moving traffic.

(Code 1958, Sec. 19-73)

Commented [LAM78]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-154(a).

Sec. 10-1-121. Riding on motorcycles.

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the operator.

(Code 1958, Sec. 19-74)

Commented [LAM79]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-140.4.

Sec. 10-1-122. Clinging to vehicles.

No person riding upon any bicycles, coaster, roller skates, sled, or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

(Code 1958, Sec. 19-75)

Commented [LAM80]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-123. Controlled access.

No person shall drive a vehicle onto or from any controlled access roadway except at such entrances and exits as are established by the director of transportation in accordance with the driveway ordinance.

Commented [LAM81]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-124. Driving on divided roadways.

Whenever any street or highway has been divided into two (2) or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to prohibit vehicular traffic, every vehicle shall be driven only upon the right-hand roadway, unless directed or permitted by official traffic control devices or police officers. No vehicle shall be driven over, across or within any such dividing space, barrier, or section except through an "opening" in such physical barrier or dividing section or space or at a cross-over or intersection as established by the director of transportation.

Commented [LAM82]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-146.

Sec. 10-1-125. Traffic control regulations for street construction and maintenance operations.

The city council hereby finds as a fact that construction and maintenance activities within street rights-of-way can create hazardous conditions which may result in accidents if proper precautions are not taken. Every precaution shall be taken to insure the safety of motorists, pedestrians, and workmen in and around the work

area. In accordance with this finding of fact it shall be the duty of all agencies, public or private, who perform work in or adjacent to a public street to provide safe and effective work areas and to warn, control, protect and expedite vehicular and pedestrian traffic in accordance with the current policy for traffic control regulations for street construction and maintenance operations as established by the director of transportation.

Secs. 10-1-126—10-1-130. Reserved.

ARTICLE J Pedestrian Rights and Duties

Sec. 10-1-131. Pedestrians subject to traffic-control signals.

Pedestrians shall be subject to traffic-control signals where such devices are in place or special pedestrian signals as designated in article P, section 10-1-291(10) but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this article.

Sec. 10-1-132. Pedestrians' right-of-way in crosswalks.

- (a) When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be so to yield, to a pedestrian crossing the roadway within the crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
- (b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.
- (c) Whenever any vehicle is stopped at a marked crosswalk or any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(Code 1958, § 19-78)

Commented [LAM83]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-173.

Sec. 10-1-133. Pedestrians to use right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(Code 1958, § 19-79)

Commented [LAM84]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-134. Crossing at right angles.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk.

(Code 1958, § 19-80)

Commented [LAM85]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-174.

Sec. 10-1-135. Crossing at other than crosswalks.

- (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

Commented [LAM86]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-174.

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- (b) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.
 - (c) Notwithstanding the provisions of this section, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

Sec. 10-1-136. Obedience of pedestrians to railroad signals.

No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

Cross reference(s)—Railroads, § 10-1-301 et seq.

Commented [LAM87]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-142.1.

Sec. 10-1-137. Pedestrians walking along roadways.

- (a) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.
- (b) Where sidewalks are not provided, any pedestrian walking along and upon a street shall when practicable walk only on the far left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

(Code 1958, § 19-83)

Commented [LAM88]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-138. Pedestrians soliciting rides, business or contributions.

- (a) No person shall stand, sit or walk in a roadway for the purpose of soliciting a ride, employment, business or contributions from the occupant of any vehicle traveling in or upon a roadway or stopped momentarily in compliance with a duly erected traffic control device or traffic sign located upon the roadway.
- (b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway or while soliciting such vehicles to park in an off-street parking facilities.

(Code 1958, § 19-84; Ord. No. 86-18, § 1, 6-5-86)

Commented [LAM89]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-175.

Sec. 10-1-139. Pedestrian-actuated flasher system for mid-block locations.

The city council hereby finds as a fact that pedestrians crossing the roadway at locations other than intersections can create hazardous conditions for the pedestrian and motorist. Every precaution shall be taken to ensure the safety of the pedestrian and to provide adequate warning, of such crossings, to the motorist. In accordance with the finding of fact it is necessary for the preservation and protection of the public safety that all pedestrian street crossings locations other than at intersection shall be in accordance with the current policy for pedestrian-actuated flasher system for mid-block crossings as established by the director of transportation.

Secs. 10-1-140—10-1-150. Reserved.

ARTICLE K Stopping, Standing and Parking

PART II - CODE OF ORDINANCES
Title 10 - TRANSPORTATION AND TRAFFIC
CHAPTER 1 - Traffic Regulations
ARTICLE K - Stopping, Standing and Parking
Division 1 Generally

Division 1 Generally

Sec. 10-1-151. Standing or parking close to curb.

Except as otherwise provided in this article, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicles parallel to and within 12 inches of the right-hand curb, except where vehicles are parked on the left side of one-way streets; in such cases the left-hand wheels of such vehicle shall be parallel to and within 12 inches of the left curb.

Commented [LAM90]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-152. Angle parking and obedience to angle-parking signs or markings.

- (a) Vehicles shall be parked at an angle upon any of the streets or portions thereof as described in article P, schedule 11a.
- (b) On those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

Commented [LAM91]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-153. Parking within marked-off spaces.

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

(Code 1958, § 19-89)

Commented [LAM92]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-154. Stopping with left side of car to curb prohibited.

No vehicle shall stop with its left side to the curb on any improved two-way street.

(Code 1958, § 19-90)

Commented [LAM93]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-155. Parking so as to interfere with police, fire and sanitary divisions.

- (a) No vehicle shall be so parked in any private alleys, private roadways or driveways as to block, interrupt or interfere with the passage of any truck or vehicle of the sanitary, fire or police divisions of the city, servicing the people and such residential, business and industrial property abutting thereon.
- (b) No vehicle shall be permitted to park in the public alley or area underneath the pedestrian plaza adjacent to the pedestrian parking garage where signs are erected giving notice thereof except authorized trucks unloading at designated loading docks. (Code 1958, § 19-91)
- (c) Subsection (a) above has been enacted for the protection of the public health, safety and convenience. To afford maximum fire protection, and to alleviate dangerous traffic congestion, vehicles parked unlawfully in violation of subsection (a) are found and declared to be inherently and substantially determined to be in violation hereof and such vehicles may be towed and impounded as provided in section 10-1-54.

Commented [LAM94]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-156. Prohibited places; no signs required.

Commented [LAM95]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

- (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) On a crosswalk;
 - (5) Within 20 feet of any flashing beacon, stop sign or traffic-control signal located at the side of a street or roadway;
 - (6) On either side of any street leading to a railroad underpass, or an overhead bridge, within 50 feet in any direction of the outer edge of such underpass or overhead bridge;
 - (7) On either side of any street leading to a grade crossing, within 50 feet of the closest rail; provided, that where existing permanent structures are located closer than 50 feet, parking may be permitted in front of such structures unless otherwise prohibited and if such parking does not block the view in either direction of the approach of a locomotive or train;
 - (8) Alongside or opposite any street excavation or obstruction if such stopping, standing or parking would obstruct traffic;
 - (9) Upon any bridge or other elevated structure or within any underpass structure;
 - (10) On the roadway side of any vehicle stopping, standing or parking at the edge or curb of a street;
 - (11) Within 15 feet of any fireplug or hydrant;
 - (12) Within 25 feet of a corner of any intersection, provided that this subsection shall not apply to any public conveyance;
 - (13) Upon the intervening space, physical barrier or clearly indicated dividing section used to divide a street or highway into two (2) or more roadways;
 - (14) Between the raised street curb and the adjacent property line;
 - (15) It shall be unlawful to drive or park any vehicle on any public park except the paved or graveled park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the director of parks and recreation.
- (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.
- (c) Any vehicle parked in violation of this section or parked in any manner to obstruct traffic may be impounded as provided in section 10-1-54.
- (d) It shall be unlawful to drive or park any vehicle on any public park except the paved or graveled park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the director of parks and recreation.

(Code 1982, Ord. of 4-7-83; Ord. No. 83-23, § 1, 4-7-83)

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(Supp. No. 4)

Sec. 10-1-157. Unlawful parking.

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

- (1) Displaying it for sale;
- (2) Washing, greasing, or repairing such vehicle, excepting repairs necessitated by an emergency;
- (3) Storage thereof by garages, dealers or other persons;
- (4) Storage of any detached trailer, or van, when the towing unit has been disconnected;
- (5) Transferring merchandise, or freight, from one vehicle to another;
- (6) Advertising.

Commented [LAM96]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-158. Truck and recreational vehicle parking.

All motor truck carriers operating as either common or contract carriers over regular or irregular routes, all passenger bus carriers, and all other operators of motor trucks or trailers of any kind, including all nonmotorized trailers and stand-alone containerized units, operating into, out of, through, or within the corporate limits of the city are hereby prohibited from parking or storage of such vehicles on the public streets except for the purposes of loading and unloading passengers and freight, and except for temporary parking in cases of emergency involving a mechanical breakdown necessitating repairs to any such vehicle. Provided that the provisions of this section shall not apply to mass transit business owned by the city, and trucks of one (1) ton capacity or less.

(Ord. No. 99-30, § 1, 3-4-99; Ord. No. 6333/06-20, § 1, 06-20)

Commented [LAM97]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-159. Parking not to obstruct traffic.

- (a) No person shall park any vehicle upon any street in such a manner or under such conditions as to obstruct any portion of the street or roadway used for the movement of vehicular traffic.
- (b) It shall be unlawful to park, stop or stand any vehicle in any traffic lane upon any street designated in article P, schedule 11 b to e.

Commented [LAM98]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-160. 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 10 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.

(Code 1958, Sec. 19-98)

Commented [LAM99]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-161. Parking adjacent to schools.

When official traffic control devices are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such place as designated in article P, schedule 11f.

Commented [LAM100]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-162. No stopping, standing or parking near hazardous or congested places.

- (a) The director of transportation is hereby authorized to determine locations in which the stopping, standing, or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.
- (b) When official traffic control devices indicating no parking, stopping, or standing are erected at hazardous or congested places no person shall stop, stand, or park a vehicle in any such place, as designated in article P, schedule 11b to e.

Commented [LAM101]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-163. Protrusion into street.

It shall be unlawful to park a vehicle on a street so that any part of the vehicle or its load extends more than eight (8) feet from the edge of the roadway, except in those areas where diagonal parking is permitted.

Commented [LAM102]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-164. Application of provisions.

The provisions of this chapter prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official traffic control devices 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.

Sec. 10-1-165. Regulations not exclusive.

The provisions of this chapter 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.

(Code 1958, Sec. 19-100)

Sec. 10-1-166. Parking prohibited at all times on certain streets.

When official traffic control devices are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets described in article P, schedule 11b.

Commented [LAM103]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-167. Emergency stopping on certain streets.

When official traffic control devices are erected giving notice thereof, no person shall stop or park a vehicle for any purpose except an emergency, upon any of the streets described in article P, schedule 11c.

Commented [LAM104]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-168. Parking prohibited during certain hours on certain streets.

When official traffic control devices are erected in each block giving notice thereof, no person shall park a vehicle between the hours specified in article P, schedule 11d of any day except Sundays and public holidays within the district or upon any of the streets described in said article.

Commented [LAM105]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-169. Stopping, standing or parking prohibited during certain hours on certain streets.

When official traffic control devices are erected in each block giving notice thereof, no person shall stop, stand, or park a vehicle between the hours specified in article P, schedule 11e of any day except Sundays and public holidays within the district or upon any of the streets described in said article.

Commented [LAM106]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-170. Two-hour parking on certain streets.

When official traffic control devices are erected in each block giving notice thereof, no person shall park a vehicle for longer than two (2) hours at any time between the hours of 8:00 a.m. and 6:00 p.m. upon any of the streets or portions thereof as described in article P, schedule 11g.

Commented [LAM107]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-171. One-hour parking on certain streets.

When official traffic control devices are erected in each block giving notice thereof, no person shall park a vehicle for longer than one (1) hour at any time between the hours of 8:00 a.m. and 6:00 p.m. of any day except Sundays and public holidays or upon any of the streets or portions thereof as described in article P, schedule 11h.

Commented [LAM108]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-172. Thirty-minute parking on certain streets.

When official traffic control devices are erected in each block giving notice thereof, no person shall park a vehicle for longer than 30 minutes at any time between the hours of 8:00 a.m. and 6:00 p.m. of any day except Sundays and public holidays or upon any of the streets or portions thereof as described in article P, schedule 11i.

Commented [LAM109]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-173. Fifteen-minute parking on certain streets.

When official traffic control devices are erected in each block giving notice thereof, no person shall park a vehicle for longer than 15 minutes at any time between the hours of 8:00 a.m. and 6:00 p.m. of any day except Sundays and public holidays or upon any of the streets or portions thereof as described in article P, schedule 11j.

Commented [LAM110]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-174. Change of vehicle position in the block.

A change of position of vehicle from one (1) point directly to another point, within the same block, shall be deemed one (1) continuous parking period. The parking period shall be as designated on traffic signs erected within the same block regulating the parking time limit.

(Code 1958, Sec. 19-110)

Sec. 10-1-175. Special furniture market parking regulations.

Notwithstanding any requirements of this chapter to the contrary, the following special parking regulations shall apply during the semi-annual International Home Furnishings Market, ("furniture market") as those dates are published by the International Home Furnishings Market Authority.

- (1) For the period beginning at 6:00 a.m. on the Monday preceding the furniture market and ending at 11:00 p.m. on the last day of the furniture market, the maximum time limits for parking prescribed by sections 10-1-170 through 10-1-173 shall not apply, except that at the following locations no parking shall be allowed between the hours of 7:00 a.m. and 7:00 p.m.:

Commented [LAM111]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

S. Elm Street, High Avenue to Green Drive.

S. Hamilton Street, Broad Avenue to Green Drive.

S. Main Street, High Avenue to Green Drive.

S. Wrenn Street, High Avenue to Green Drive.

- (2) Between the hours of 7:00 a.m. and 7:00 p.m. during the furniture market, unattended vehicles and those impeding the flow of traffic are prohibited on the following streets:

Elm Street, Westwood Avenue to Russell Avenue.

Hamilton Street, Russell Avenue to Westwood Avenue.

Main Street, Russell Avenue to Westwood Avenue.

Wrenn Street, Westwood Avenue to Russell Avenue.

- (3) During the dates of the furniture market the following regulations shall apply in the area bounded by High Avenue in the north, Lindsay Street on the west, Russell Avenue on the south and Hamilton or Steele Street on the east:

- a. Loading or unloading of any goods for display in showrooms is prohibited between 7:00 a.m. and 7:00 p.m. Loading and unloading is permitted in official loading zones, and off street loading docks or areas between 7:00 a.m. and 7:00 p.m.
- b. Vehicles shall not wait upon the street for access to a loading dock or area. If necessary to avoid delays in loading or unloading, showrooms shall provide a private staging and holding area for vehicles needing to access their docks.

(Ord. No. 02-75, § 1, 8-15-02)

Sec. 10-1-176—10-1-190. Reserved.

Editor's note(s)—Ord. No. 92-43, § 1, adopted May 7, 1992, deleted §§ 10-1-176—10-1-180, which contained provisions relative to parking meters and to the violation of this division and were derived from provisions presumably enacted during the original codification and from Code 1958, §§ 19-121—191-123 and 19-125.

Division 2 Off-Street Parking

Sec. 10-1-191. General.

The city council hereby finds as a fact that traffic congestion within High Point is such that the establishment of a system of off-street parking facilities is necessary for the preservation and protection of the public safety, the alleviation of congestion created by traffic and parking upon the public streets and for the promotion of the welfare and convenience of the public within the city. In accordance with this finding of fact it shall be unlawful to park any vehicle in any of these off-street facilities without making proper payment when prescribed as required in article P, schedule 18(b).

Sec. 10-1-192. Definitions.

- (a) Off-street parking facility is any lot, area or structure owned or operated by the city for the purpose of parking vehicles.
- (b) For the purpose of this article the following definitions shall apply:

Commented [LAM112]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

- (1) *Public parking facility:* Any lot, area or structure owned or operated by the city which is used exclusively by the general public for the purpose of parking vehicles.
- (2) *Reserve parking facility:* Any lot, area or structure owned or operated by the city which has assigned or leased parking for specified purposes.
- (3) *Restricted parking facility:* Any lot, area or structure owned or operated by the city which is designated for city-owned vehicles or authorized vehicles being used as a necessary part of city employment.

(Code 1958, § 19-159)

Sec. 10-1-193. Unlawful parking in public facility.

- (a) It shall be unlawful and shall constitute a trespass for any person to park a motor vehicle in any parking facility owned or operated by the city as a public parking facility as designated in article P, schedule 18a, at any place except in a designated parking space or in such a manner as to block or interfere with the placing of a motor vehicle in a regular designated parking space or the removal of a motor vehicle from any such designated parking space or the actual entrance and exit to the facility. Any motor vehicle found parked in violation of this section shall be impounded. Parking facilities to which this section shall be applicable shall have a sign at each entrance containing language indicating that motor vehicles parked contrary to this section will be impounded.
- (b) The director of transportation is hereby authorized to establish short parking spaces in any public parking facility owned and operated by the city after an engineering and traffic investigation has been made to determine the need for such spaces. It shall be unlawful for any person to park a motor vehicle in these designated spaces for longer than two (2) hours at a time between the hours of 8:00 a.m., and 6:00 p.m., except Sundays and holidays. All such spaces shall have signs erected, giving notice of the prescribed time limit.

(Code 1958, Sec. 19-160, as amended by Ord. of 3/6/80)

Commented [LAM113]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-194. Unlawful parking in reserve parking facility.

It shall be unlawful and shall constitute trespass for any person to park a motor vehicle in any parking facility owned or operated by the city as a reserve parking facility as designated in article P, schedule 18a, at any place except in a designated parking space or area assigned to him by the director of transportation or in such a manner as to block or interfere with the placing of a motor vehicle in a regular designated parking space or the removal of a motor vehicle from any such designated parking space or the actual entrance and exit to the facility. Any motor vehicle found parked in a reserve parking facility owned or operated by the city in violation of this section shall be impounded. Parking facilities to which this section shall be applicable shall have a sign at each entrance containing language indicating that such facility is a reserve facility and that motor vehicles parked contrary to this section will be impounded.

Commented [LAM114]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-195. Unlawful parking in restricted parking facility.

- (a) It shall be unlawful and shall constitute a trespass for any person to park a motor vehicle in any restricted parking facility as designated in article P, schedule 18(a) except that any authorized person operating a city owned vehicle or a vehicle used exclusively for city purposes may park such vehicle in any restricted parking lot operated by the city.
- (b) No vehicle shall park at any place except in a designated parking space or in such a manner as to block or interfere with the placing of a motor vehicle in a regular designated parking space or the actual entrance or

Commented [LAM115]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

exit to the facility. Any motor vehicle found parked in a restricted parking facility to which this section shall be applicable shall have a sign at each entrance containing language indicating that such facility is a restricted facility and that motor vehicles parked contrary to this section will be impounded.

- (c) Vehicles parked in a restricted parking facility that are not authorized or which are not parked in the assigned area shall be issued a citation by the police department.
- (d) The director of transportation is hereby authorized to establish shortterm parking spaces in any restricted parking facility owned and operated by the city, after an engineering and traffic investigation has been made to determine the need for such spaces. It shall be unlawful for any person to park a motor vehicle in these designated spaces for longer than the established time, at any time between the hours of 8:00 a.m. and 6:00 p.m., except Sundays and holidays. All such spaces shall have signs erected giving notice of the prescribed time limit. The police department shall have the authority to issue a citation to any vehicle parked in excess of the established time limit.

(Code 1958, § 19-162; Ord. No. 91-34, § 1, 5-2-91)

Sec. 10-1-196. Impounding vehicles—When illegally parked.

- (a) It shall be unlawful for any person to fail to pay the required charges for the privilege of parking a vehicle in any parking facility of which rates are fixed in article P, schedule 18b.
- (b) It shall be unlawful for any person not authorized by the director of transportation to park a vehicle in any reserved or restricted parking facility owned or operated by the city. All violators shall be subject to having such vehicle impounded as herein provided.

Cross reference(s)—Impoundment powers and procedures of police. Sec. 10-1-54.

Sec. 10-1-197. Same—Right of redemption and charges.

- (a) The city is hereby authorized to impound any vehicle from any parking facility owned or operated by the city when such vehicle is in violation of the provisions of this article and such vehicle shall be held until claimed by the legal owner.
- (b) In the event it becomes necessary to impound such vehicle, the charges for impounding and storage shall be paid by the owner or other person responsible for such vehicle.

(Code 1958, Sec. 19-164)

Sec. 10-1-198. Same—Notification to owner.

- (a) It shall be the duty of the city to notify the owner of any impounded vehicle in writing, by registered mail, return receipt requested, within 72 hours, of the fact that his vehicle has been impounded, setting forth the reasons for such impounding and the amount of the charges constituting a lien thereon.
- (b) When the vehicle is registered in this state or in any other state the registered owner thereof, as shown by the records of the state of its registration, shall be deemed the owner of the vehicle, and the mailing of the notice required hereby to such registered owner at the address shown on such records shall be deemed sufficient notification hereunder.

(Code 1958, Sec. 19-165)

Commented [LAM116]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-199. Same—Charges constitute lien; release.

Impounding, storage, violation and other charges incurred by the city and imposed upon the owner or operator of any illegally parked vehicle in connection with the impounding thereof shall constitute a lien upon the illegally parked vehicle, and no such impounded vehicle shall be released until all such charges have been paid to the collections department of the city and proper evidence of ownership exhibited.

(Code 1958, § 19-166)

Sec. 10-1-200. Rate schedule.

In accordance with section 10-1-191 the rates for off-street parking facilities shall be as established from time to time by the council as designated in article P, schedule 18(b).

Sec. 10-1-201. Liability of city for theft, damage to vehicles, etc.

- (a) The city shall not be responsible or liable for the loss or theft of any vehicle parked on any off-street parking facility established by the city, or any part thereof, or any contents thereof; nor shall the city be responsible or liable for damage to any vehicle or to the contents thereof, while same is parked within the boundaries of any such off-street parking facility.
- (b) Persons parking vehicles on any off-street parking facility established by the city will do so at their own risk, with respect to such vehicles and any parts or contents thereof.

(Code 1958, § 19-169)

Sec. 10-1-202. Selling goods from parked vehicles prohibited.

It shall be unlawful for any person to sell, or offer to sell, any goods, wares, merchandise from any vehicle parked on any off-street parking facilities as established by the city or within the boundaries thereof.

(Code 1958, § 19-170)

Commented [LAM117]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-203. Loitering prohibited; littering parking facilities with rubbish, handbills, etc., prohibited.

- (a) It shall be unlawful for any person to loiter on any parking facility established by the city without lawful authority or permission.
- (b) It shall be unlawful for any person to scatter or litter trash, rubbish, refuse, paper or distribute handbills on any parking facility established by the city, provided that nothing shall prohibit the delivery by hand of handbills to any person.

(Code 1958, § 19-171)

Commented [LAM118]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-204. Bicycles, roller skates, etc., prohibited.

- (a) It shall be unlawful and shall constitute a trespass for any person upon roller skates, in-line skates, roller blades, skateboards, or any other self-propelled or push device, or riding in or by means of any coaster, toy

Commented [LAM119]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

vehicle, bicycle or similar device to be upon the premises of any parking facility owned or operated by the city where a fee is charged.

- (b) Parking facilities to which this section shall be applicable shall have a sign at each entrance containing language indicating the uses being prohibited.

(Ord. No. 94-12, § 1, 3-3-94)

Cross reference(s)—Bicycles, § 10-1-251 et seq.

Secs. 10-1-205—10-1-210. Reserved.

ARTICLE L Loading and Unloading

Sec. 10-1-211. Loading and unloading prohibited during certain hours for certain types of vehicles

The loading and unloading of tractor-trailer trucks is prohibited during the hours of 7:30 a.m. to 8:30 a.m., 11:00 a.m. to 2:00 p.m. and 4:00 p.m. to 6:00 p.m. upon any of the streets or portions thereof as described in article P, schedule 11p.

Sec. 10-1-212. Freight curb loading zones.

The director of transportation is hereby authorized to establish freight curb loading zones on certain streets or parts of streets in such a manner as he shall determine, after an engineering investigation, to be of the greatest benefit and convenience to the adjacent businesses and to the general public and every such freight loading zone shall be designated by an appropriate sign and/or signs. The freight curb loading zones described in this section shall be located as designated in article P, schedule 11l.

Sec. 10-1-213. Passenger curb loading zones.

The director of transportation is hereby authorized to establish passenger curb loading zones on certain streets or parts of streets in such manner as he shall determine, after an engineering investigation, to be of the greatest benefit and convenience to the adjacent businesses and to the general public and every such passenger loading zone shall be designated by an appropriate sign and/or signs. The passenger curb loading zones described in this section shall be located as designated in article P, schedule 11m.

Sec. 10-1-214. Standing in passenger curb loading zone.

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, except that when signs are erected at any passenger loading zone designating a longer time period, no vehicle shall be allowed to stop, stand or park for more than the time specified on the signs. The time period that may be established at any passenger loading zone shall not exceed 30 minutes.

(Code 1958, § 19-113)

Commented [LAM120]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Commented [LAM121]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-215. Standing in freight curb loading zone.

No person shall stop, stand, or park a vehicle for any purpose or length of time other than for expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed 30 minutes.

Commented [LAM123]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-216. Temporary freight curb loading zones.

The director of transportation is hereby authorized to establish temporary freight curb loading zones when temporary loading and unloading activities warrant the creation of such a zone for a limited period of time.

Sec. 10-1-217. Public carrier curb zones.

The director of transportation is hereby authorized and required to establish bus stops, bus stands, taxicab stands and stands for other passenger common carrier motor vehicles on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxi stand, or other stand shall be designated by appropriate signs. The bus stops and taxi stands described in this section shall be located as designated in article P, schedule 11n and 11o, respectively.

Sec. 10-1-218. Stopping, standing and parking of buses and taxis regulated.

- (a) The operator of the bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.
- (b) The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in case of emergency.
- (c) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than 12 inches from the curb and the bus approximately parallel to the curb so as not to impede unduly the movement of other vehicular traffic.
- (d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxi stand so designated as provided herein. This provision shall not prevent the operator of a taxi from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

(Code 1958, § 19-116)

Commented [LAM123]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-219. Restricted use of bus and taxicab stands.

- (a) 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 such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading and unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.
- (b) The mass transit facility located, adjacent to Broad Avenue between Hayden Place and Elm Street shall be for the exclusive use of buses, except for emergency and service vehicles using the pedestrian walkway. No vehicles except buses shall stop, stand or park at anytime in the transfer facility and those buses, emergency,

Commented [LAM124]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

and service vehicles shall travel only in the direction indicated when signs indicating the direction of travel have been erected and maintained. No person or vehicle shall interfere with the operation of the buses and with the access of pedestrians between the transfer facility and the pedestrian walkway. Vehicles interfering with the operation of the buses in the transfer facility shall be subject to immediate removal.

(Code 1958, § 19-117)

Secs. 10-1-220—10-1-230. Reserved.

ARTICLE M Regulating Kinds and Classes of Traffic on Certain Streets

Sec. 10-1-231. Truck routes.

- (a) The city council hereby finds as a fact that the indiscriminate driving of heavy trucks and trailers over the streets located within the corporate limits of the city is detrimental to the health, morale, comfort, safety and welfare of the people of the city and deems it best for the public welfare of the citizens that the operation of such trucks and trailers be confined to certain streets within the corporate limits of the city. The heavy trucks and trailers to which this chapter applies are tractor and tandem tractor type trucks when pulling semi-trailers or tandem semi-trailers.
- (b) When official traffic control devices are in place all trucks and trailers entering the city destined to any point outside the city and not taking on or discharging within the city limits, any goods, wares or merchandise shall travel exclusively on the streets designated in article P, schedule 12.
- (c) No person shall operate any such trucks or trailers for the transportation of property, except along and over the routes set out in article P, except when it is impracticable to do so because of street repairs or other emergency, or when necessary to travel on other streets to a destination for the purpose of loading or unloading goods, wares, or merchandise, and then only by such deviation from the nearest truck traffic route as is reasonably necessary.
- (d) All persons operating trucks or truck trailers for the transportation of goods, wares, or merchandise, whose property or cargoes are taken on or loaded within the city for transportation outside the corporate limits, shall in every instance follow said truck route out of the city.

Commented [LAM125]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-232. Traction engines, etc.

It shall be unlawful for any person to roll or to move on, along, over, or across any of the paved, macadamized, concrete, or bitulithic streets in the city any traction engine, trailer, "snaggle-tooth" harrow or any other character of engine, roller, or machine having corrugated, spiked, "snaggle-tooth" or any other kind of tires or rollers that will indent or damage the streets.

(Code 1958, Sec. 19-127)

Commented [LAM126]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-233. Transportation of flammables; routes designated.

It shall be unlawful for any person to transport gasoline, naphtha, kerosene, distillate, oil, or other flammable or explosive oil derivatives into or through the city by means of motor vehicles, motor trucks, or combination of motor truck and trailer or other vehicle, or to operate such vehicles as are customarily used for the transportation of such commodities except to regularly established automobile repair shops, over and upon any of the streets, avenues, or alleys of the city except as described in article P, schedule 13.

Commented [LAM127]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-167, 167.1.

Sec. 10-1-234. Load restrictions upon vehicles using certain highways.

When official traffic control devices are in place giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified in article P, schedule 14(a); provided, however, that this section shall not be construed to prohibit the operation of any vehicles performing necessary services for persons or organizations located on the streets or parts of streets which are designated as restricted.

Commented [LAM128]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-116, 118, 119.

Sec. 10-1-235. Load limit for bridges.

When official traffic control devices are in place giving notice thereof, it shall be unlawful for any person, firm, or corporation to drive, operate or tow on any bridge within the corporate limits, any vehicle or combination of vehicles with a gross weight exceeding the safe load carrying capacity as established in article P, schedule 14(b) and posted at each end of said bridge.

Commented [LAM129]: Brian Beasley suggests decriminalizing. Covered under state law G.S. 20-116, 118, 119.

Sec. 10-1-236. Restrictions upon use of streets by certain vehicles.

- (a) The director of transportation is hereby authorized to determine and designate these heavily traveled streets upon which shall be prohibited the use of the roadway by motor-driven cycles, bicycles, horse-drawn vehicles or other non-motorized traffic and shall erect appropriate signs giving notice thereof.
- (b) When official traffic control devices are erected giving notice thereof, no person shall disobey the restrictions stated on such signs as designated in article P, schedule 15.

Commented [LAM130]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-237. Pedestrian walkways and malls.

Upon those streets, or parts of streets, or areas designated as pedestrian walkways and malls in article P, schedule 16, vehicular traffic, except emergency and service vehicles shall travel only in the direction indicated when signs indicating the direction of travel are erected and maintained. Signs indicating the designated pedestrian walkway and mall shall be erected and maintained at every intersection or point of traffic ingress.

Commented [LAM131]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Secs. 10-1-238—10-1-250. Reserved.

ARTICLE N Bicycles¹⁴

Sec. 10-1-251. Regulations for bicycles.

- (a) It is an offense against the city for any person to do any act forbidden or fail to perform any act required in this article.
- (b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.
- (c) Those regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

¹⁴Cross reference(s)—Bicycles ridden in city parking facilities, Sec. 10-1-204.

Sec. 10-1-252. Traffic laws apply to persons riding bicycles.

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 the traffic ordinances of this city applicable to the driver of a vehicle, except as to those special regulations in this article and except as to those provisions of laws and ordinances which, by their very nature, have no application.

Sec. 10-1-253. Obedience to traffic control devices.

- (a) Any person operating a bicycle shall obey the instructions of official traffic 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 person 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 obey the regulations applicable to pedestrians.

Commented [LAM132]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-254. Riding on bicycles.

- (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.

Commented [LAM133]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-255. Riding on roadways and bicycle paths.

- (a) Every person operating a bicycle upon a roadway shall ride as near to the right 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 the roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.
- (c) Wherever a usable path for bicycles has been provided adjacent to a roadway, riders shall use such path and shall not use the roadway.
- (d) All motorized vehicles are prohibited on any posted bicycle path.

Commented [LAM134]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-256. Speed.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

Commented [LAM135]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-257. Emerging from alley or driveway.

The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.

Commented [LAM136]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-258. Carrying articles.

No person operating a bicycle shall carry any package, bundle or article which prevents the rider from maintaining adequate control of the bicycle, for the safety of the rider and pedestrians in the area.

Commented [LAM137]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-259. Parking.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

Commented [LAM138]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-260. Riding on sidewalks.

- (a) No person shall ride a bicycle upon a sidewalk within a business district.
- (b) When official traffic control devices are in place on any sidewalk or roadway, prohibiting the riding of bicycles thereon by any person, no person shall operate a bicycle in such restricted areas designated in article P, schedule 17(a).

Commented [LAM139]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-261. Lamps and other equipment on bicycles.

- (a) Every bicycle, when in use at night time, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type which shall be visible from all distances to 300 feet to the rear when directly in front of lawful upper beams of headlights on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.
- (b) No person shall operated a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.
- (c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

Commented [LAM140]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-262. Riding on handlebars prohibited.

The operator of a bicycle when upon a street, shall not carry any person upon the handlebars or frame of his bicycle, nor shall any person so ride upon such bicycle.

Commented [LAM141]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-263. Bicycle; street lanes.

The street or portions of streets designated in article P, schedule 17(b) are hereby established as bicycle-street lanes for the use of non-motorized bicycles requiring manual operation. When official traffic control devices are in place designating a bicycle-street lane, it shall be unlawful for any person to park, drive or enter any vehicle (except a bicycle as defined above) within a bicycle-street lane.

Commented [LAM142]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

Sec. 10-1-264. Skateboards.

- (a) "Skateboard" means any board, platform, or other device having one (1) or more wheels, or any other similar device, intended to be ridden by a person who propels himself or herself by pushing it forward and then riding upon it as it coasts.

Commented [LAM143]: Brian Beasley suggests decriminalizing. Best handled with a civil penalty.

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- (b) The use of a skateboard by any person shall be prohibited on the premises of the High Point Library at 901 N. Main Street including its parking lots, and in the following locations in the Central Business District:
- (1) Any public sidewalk, street, parking lot, or parking deck, including the premises of the High Point Municipal Building at 211 S. Hamilton Street.
 - (2) On the premises of any business, residence, or other private property where one (1) or more signs are positioned to give notice and which contain the words "No Skateboards". Letters on the sign must be clearly legible and at least three (3) inches in height.
- (c) Violation of this section shall subject the offender to a civil penalty of \$25.00.
- (Ord. No. 02-45, § 1, 6-6-02)

Secs. 10-1-265—10-1-270. Reserved.

ARTICLE O Parades, Special Events And Picketing¹⁵

DIVISION 1. PARADES AND SPECIAL EVENTS

Sec. 10-1-271. Definitions.

The following words, terms and phrases, when used in this article, division 1 and division 2, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Appeals official* means the city manager, or his designee who shall be a deputy city manager or assistant city manager.
- (2) *City* means the City of High Point, North Carolina.
- (3) *City manager* is the person selected and appointed by the High Point city council to fill the position of city manager or his or her designee.
- (4) *Parade* means any march, demonstration, gathering, public assembly, procession or motorcade consisting of persons, animals, or vehicles or a combination thereof that has the potential to disrupt the normal flow of traffic upon any public street, provided the term shall not include:
 - a. Funeral processions;
 - b. Pickets as defined in subsection (8) below;
 - c. Footraces and bicycle races as defined in section 10-1-282 of this article;
 - d. Block parties as defined in section 10-1-283 of this article; and
 - e. Festivals as defined in section 10-1-284 of this article.
- (5) *Permit official* means the person or persons designated by the city manager as being responsible for issuing and revoking permits under this article. The city manager may designate different persons as

¹⁵Editor's note(s)—Ord. No. 7417/18-46, adopted May 21, 2018, repealed §§ 10-1-271—10-1-283 and added §§ 10-1-271—10-1-290 as herein set out. Former §§ 10-1-271—10-1-283 pertained to parades and derived from the 1982 Code; Ord. No. 91-55, adopted Sep. 5, 1991 and Ord. No. 7022/13-54, adopted December 16, 2013.

the permit official for different categories of permitted events and for different facilities or locations. The permit official shall not be the same designee as the appeals official.

- (6) *Person* means any person, firm, partnership, association, corporation, company or organization of any kind.
- (7) The terms *picket*, *pickets*, *picketer*, and *picketing* as used herein mean to make a public display or demonstration of sentiment for or against a person or cause, taking place in a particular location without procession to other locations, and includes those demonstrations which may include the distribution of leaflets or handbills, the display of signs and any oral communication or speech, which may involve an effort to persuade or influence, including all expressive and symbolic conduct, whether active or passive, upon those portions of the public street and sidewalk not used primarily for vehicular parking and moving traffic and not constituting a parade, as defined in section 10-1-271(5).
- (9) *Public street* means any place or way set aside or open to the general public for purposes of vehicular traffic, including any berm or shoulder parkway, right-of-way, or median strip thereof. The terms "highway" and "street" and their cognates are synonymous as used herein.
- (10) *Sidewalk* means any area or way set aside or open to the general public for purposes of pedestrian traffic, whether or not it is paved.
- (11) *Special event* means parade as defined in section 10-1-271(4); footraces and bicycle races as defined in section 10-1-282 of this article; block parties as defined in section 10-1-283 of this article; and festivals as defined in section 10-1-284 of this article.

(Ord. No. 7417/18-46 , 5-21-18)

Sec. 10-1-272. Parade permits.

- (a) Permit required. It shall be unlawful for any person to conduct or participate in a parade unless a permit allowing such activity has been obtained, and remains unrevoked, pursuant to this section. No person may conduct or otherwise participate in any parade except between the hours of 9:00 a.m. and 9:00 p.m.
- (b) Permit application. A person seeking a parade permit shall file an application with the permit official or designee on forms provided by the city and the application shall be signed by the applicant under oath at least 10 business days and not more than 180 days before the commencement of the event. Notwithstanding the preceding sentence, the permit official shall consider an application that is filed less than 10 business days before the commencement of the proposed event where the purpose of such event is a spontaneous response to a current event or where, after due consideration of the date, time, place, and nature of the parade, the anticipated number of participants, and the city services required in connection with the event, the permit official determines that the time from filing is sufficient to prepare for the parade pursuant to the standards set forth in subsection (c) below.

The permit application must contain the following if applicable:

- (1) The name, address, and telephone number for the person in charge of the proposed event and the name of the organization with which that person is affiliated or on whose behalf the person is applying (collectively "applicant");
- (2) The name, address, and telephone number for an individual who shall be designated as the responsible planner and on-site manager for the event ("parade chairman");
- (3) The date, time, place, and route of the proposed event, including the location and time that the event will begin to assemble and disband;

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- (4) The anticipated number of persons, vehicles, and animals which will constitute such parade or demonstration and the type of animals and description of the vehicles;
 - (5) The location by street of any assembly areas for such parade or demonstration;
 - (6) Such other information, attachments, and submissions that are requested on the application form; and
 - (7) Payment of a nonrefundable application fee as set out in the city's special event policy.
- (c) Permitting criteria. The permit official or city manager shall issue a permit for the proposed parade unless:
- (1) The safe conduct of the parade will substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
 - (2) The conduct of the parade will require the diversion of so great a number of law enforcement personnel of the city to properly police the line of movement of the parade and of contiguous areas that adequate police protection cannot be provided to the remainder of the city;
 - (3) The conduct of the parade will require the diversion of so great a number of ambulances and rescue units that adequate ambulance and rescue service to portions of the city and contiguous areas not occupied by the parade will be impeded;
 - (4) The application is not fully completed and executed or contains a material falsehood or misrepresentation;
 - (5) The proposed event would conflict with previously planned programs organized, conducted, or sponsored by the City and previously scheduled at or near the same time and/or place or would conflict with an already permitted event under this section;
 - (6) The concentration of persons, animals, and vehicles at assembly points of the parade will substantially interfere with adequate police and fire protection of, or ambulance and rescue service to, areas contiguous to such assembly areas;
 - (7) The parade is to be held for the primary purpose of advertising a product, goods, or an event, and is designed to be held primarily for private profit or gain;
 - (8) 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 city; or
 - (9) The proposed event would present an unreasonable danger to the public health and safety.
- (d) Nothing in this section shall authorize the permit official or city manager to deny a permit based upon political, social, religious, ethnic, race, disability, sexual orientation or gender related grounds, or based upon the content of the views expressed.

(e) Any violation of this section is punishable as a misdemeanor.

(Ord. No. 91-55, § 1, 9-5-91; Ord. No. 7022/13-54, 12-16-13; Ord. No. 7417/18-46, 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

Commented [TNE144]: Criminalizing this because Brian Beasley wanted it criminalized. However, it may not be allowed to be criminalized under S.L. 2021-138 if parades are considered a "form of amusement" under G.S. 160A-194.

Sec. 10-1-273. Revocation of permit.

The city manager or chief of police may immediately revoke any permit granted for a parade if:

- (a) Any parade participant violates the standards for conduct of parades set out herein; or
- (b) Any parade participant fails to comply with the formation, terms, and conditions set out in the application and permit or fails to comply with the terms of this article.

(Ord. No. 91-55, § 1, 9-5-91; Ord. No. 7022/13-54, 12-16-13; Ord. No. 7417/18-46 , 5-21-18)

Sec. 10-1-274. Parade costs.

- (a) The applicant for permits pursuant to section 10-1-272 shall be responsible for reasonable costs associated with the parade including the hiring and paying off-duty law enforcement officers, or reimbursing the city for the costs of providing on-duty law enforcement officers and other necessary personnel and equipment, to appropriately police street closures and the safety and security of participants. The police and fire departments shall determine the number of officers, traffic control officers (in accordance with N.C.G.S. § 20-114.1), fire/EMS personnel, and transportation personnel needed to appropriately police street closures and for safety, security, and medical needs and the time when such services shall commence and end, taking into consideration the following:
- (1) The proposed location of the route of the parade;
 - (2) The time of day that the parade is to take place;
 - (3) The date and day of the week proposed;
 - (4) The general traffic conditions in the area requested, both vehicular and pedestrian.
 - (5) The number of marked and unmarked intersections along the route requested, together with the traffic control devices present;
 - (6) If traffic must be completely rerouted from the area, then the number of marked and unmarked intersections and the traffic control devices are to be taken into consideration;
 - (7) The estimated number of participants;
 - (8) The nature, composition, format and configuration of the parade;
 - (9) The anticipated weather conditions; and
 - (10) The estimated time for the parade
- (b) (1) Notwithstanding the foregoing, the permit official or city manager shall grant a waiver of costs for the services required by this subsection to an indigent applicant seeking a permit for a parade. An indigent applicant is any person who:
- (i) If an individual, receives or is qualified to receive electronic food and nutrition benefits recognized by the North Carolina Department of Health and Human Services, issued through Electronic Benefit Transfer cards;
 - (ii) If an individual, receives or is qualified to receive Work First Cash Assistance;
 - (iii) If an individual, receives or is qualified to receive Supplemental Social Security Income; or
 - (iv) If not an individual, receives no membership fees, dues, or any other type of income and owns no assets, and is not a sole proprietorship, general partnership, corporation, limited liability company, or limited partnership organized under state law.
- (2) An applicant requesting a waiver of costs on the basis of indigency shall inform the permit official and provide evidence of indigency. If it is later determined that there has been an intentional, material misrepresentation of the applicant's financial status or other information provided on the application, the city reserves the right to charge the organizers on appropriate fee based on actual events.
- (c) The city may sponsor parades that are annual civic or community events provided to city residents generally around holidays.

Created: 2021-09-14 11:17:59 [EST]

(Supp. No. 4)

(Ord. No. 7417/18-46 , 5-21-18)

Sec. 10-1-275. Notice of action on permit application; appeal procedure.

- (a) The permit official or city manager shall act upon the application as expeditiously as reasonably possible, and within three (3) working days after receipt, notifying the applicant in writing of his decision. The notice shall also inform the applicant of the appeal procedure available under subsection (b) of this section and the conference available under section 10-1-276 for an alternative permit. If the application is for a parade permit and is filed in less than 10 days prior to the proposed event as a spontaneous response, described in section 10-1-272(b), the permit official or city manager shall notify the Applicant in writing of the decision and basis for the decision within 24 hours of receipt of the application.
- (b) Any person aggrieved shall have the right to appeal the denial of a parade permit immediately to the appeals official. The denied applicant shall make the appeal within five (5) days after receipt of the denial by filing a written notice with the city manager and a copy of the notice with the city clerk.
 - (1) Within five business days, or such longer period of time agreed to by the applicant, the appeals official shall hold a quasi-judicial hearing on whether to issue the permit or uphold the denial or revocation. The applicant shall have the right to present evidence at said hearing. The decision to issue or uphold the denial or revocation shall be based solely on the approval criteria set forth in this section. The appeals official shall render a decision on the appeal within five (5) business days after the date of the hearing. In the event that the purpose of the proposed event is a spontaneous response to a current event, or where other good and compelling causes are shown, the appeals official shall reasonably attempt to conduct the hearing and render a decision on the appeal as expeditiously as is practicable.
 - (2) The decision of the appeals official is subject to review in the Superior Court of Guilford County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within 30 days after the applicant has received notice of the decision. Unless good cause exists to contest a petition for writ of certiorari, the city shall stipulate to certiorari no later than five (5) business days after the petitioner requests such a stipulation. The city shall transmit the record to the court no later than five (5) business days after receiving the order allowing certiorari. Notwithstanding the provisions of any local rule of the reviewing court that allows for a longer time period, the city shall file its brief within 15 days after it is served with the petitioner's brief. If the petitioner serves his or her brief by mail, the city shall add three (3) days to this time limit, in accordance with North Carolina General Statute 1A-1, Rule 5. If the local rule is subsequently amended to provide for a shorter time period for the filing of any brief, then the shorter time period shall control. The North Carolina Rules of Appellate Procedure shall govern an appeal by an applicant from the Superior Court of Guilford County.

(Ord. No. 7417/18-46 , 5-21-18)

Sec. 10-1-276. Alternative permit.

If the permit official or city manager denies an application for a parade permit based upon one (1) or more of the findings prescribed in section 10-1-272, the permit official or city manager shall, upon the request of the applicant, confer with applicant for the purpose of trying to negotiate modifications to the planned parade that will eliminate the objections found under section 10-1-272. The permit official or city manager is authorized to grant an alternative permit specifying a date, time, or route different from that contained in the application. The alternative permit is valid only upon the filing by the applicant with the permit official or city manager a written acceptance of the alternative permit. An alternative permit is void if not accepted in the manner prescribed in this

section within three (3) working days after its issuance. An alternative permit shall conform to the requirements of and shall have the effect of a parade permit under this article.

(Ord. No. 7417/18-46 , 5-21-18)

Sec. 10-1-277. Duties of permittee.

A permittee hereunder shall comply with all permit directions and conditions, and with applicable laws and ordinances.

(Ord. No. 7417/18-46 , 5-21-18)

Sec. 10-1-278. Duty of parade chairman.

The person designated in the application as responsible for the physical conduct of the parade shall be responsible for monitoring the conduct of the participants in the parade. Upon actual notice of any violation, given to the responsible person by a law enforcement officer on the scene of said parade, such person shall make immediate bona fide attempts to correct the violation. It shall be unlawful for such responsible person to refuse to make such bona fide attempts to correct the violation. [A violation of this section is punishable as a misdemeanor.](#)

(Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

Sec. 10-1-279. Conduct during the parade.

- (a) *Interference.* No person shall unreasonably hamper, obstruct, or impede, or interfere with any parade or parade assembly or with any person, vehicle, or animal participating or used in the parade.
- (b) *Driving through parades.* No driver of any vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.
- (c) *Parade or parade route.* The city manager or designee shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or highway or part thereof constituting a part of the route of a parade. The city manager shall cause signs to be posted to this effect, and it shall be unlawful for any person to park or leave unattended, any vehicle in violation thereof.

[\(d\) Any violation of this section is punishable as a misdemeanor.](#)

(Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

Sec. 10-1-280. Hand-carried signs.

No sign or poster carried by hand in the parade shall be of greater density than eight (8) ply .030 thickness cardboard. No support for such sign or poster shall be of a metallic substance nor thicker than one (1) by three-fourth (¾) inches.

(Ord. No. 7417/18-46 , 5-21-18)

Commented [TNE145]: Criminalizing this because Brian Beasley wanted it criminalized. However, it may not be allowed to be criminalized under S.L. 2021-138 if parades are considered a "form of amusement" under G.S. 160A-194.

Commented [TNE146]: Criminalizing this because Brian Beasley wanted it criminalized. However, it may not be allowed to be criminalized under S.L. 2021-138 if parades are considered a "form of amusement" under G.S. 160A-194.

Sec. 10-1-281. Parade route.

Every parade shall follow the route designated and approved by the city manager or designee and prescribed on the parade permit. A violation of this section is punishable as a misdemeanor.
(Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

Commented [TNE147]: Criminalizing this because Brian Beasley wanted it criminalized. However, it may not be allowed to be criminalized under S.L. 2021-138 if parades are considered a "form of amusement" under G.S. 160A-194.

Sec. 10-1-282. Footraces and bicycle races.

- (a) The term "footrace" as used in this section is defined as a group of three (3) or more runners or walkers competing against either each other or a time limit over a fixed course all or a part of which involves the use of city street right-of-way, city sidewalks, and greenways. This term shall include events connected to a footrace, such as untimed non-competitive "fun runs."
- (b) The term "bicycle race" as used in this section is defined as a group of three (3) or more bicyclists competing against each other or a time limit over a fixed course all or a part of which involves the use of city street right-of-way, city sidewalks, and greenways. This term shall include untimed non-competitive bicycle events such as memorial rides.
- (c) Application for a race covered by this section shall be made in writing at least 120-90 calendar days before the time at which the race shall be scheduled to begin and shall contain the information outlined in the city's special event policy. A race application may be accepted after this deadline only if allowed as a late application permitted under the city's special event policy.
- (d) Upon receipt of an application properly completed and timely filed as hereinabove set out, the city manager or designee shall issue a permit after the applicant has complied with all applicable requirements imposed in accordance with the city's special event policy. The permit shall contain all information stated on the application and shall be signed by the city manager or designee.
- (e) The following standards shall apply to all footraces and bicycle races subject to this section conducted in the city:
 - (1) Every race shall follow a route approved by the city manager or designee in accordance with the standards set out below.
 - (2) The race applicant and all persons involved in conducting the race shall comply with all terms and conditions set out in the city's special event policy and all terms and conditions contained in the permit issued for the race.
 - (3) The organizer of an event subject to this section shall be responsible for reasonable costs associated with the foot races and bicycle races including the hiring and paying off-duty law enforcement officers, or reimbursing the city for the costs of providing on-duty law enforcement officers and other necessary personnel and equipment, to appropriately police street closures and the safety and security of participants. The police and fire departments shall determine the number of officers, traffic control officers (in accordance with N.C.G.S. 20-114.1), fire/EMS personnel, and transportation personnel needed to appropriately police street closures and for safety, security, and medical needs and the time when such services shall commence and end. The city may provide the services required by this subsection at no cost, or at a reduced cost, to the applicant should the city desire to provide such support to the event.

Commented [TNE148]: Make sure Council is comfortable with reducing this time period because 120 days is a long time.

- (4) The permit shall not be issued until the sponsor shall acquire sufficient insurance or approval by the city attorney to indemnify the city for damages or liability which the city might incur.
- (5) The approval of any route shall be based on the safety of the participants and non-participants, the degree of disruption that the route will likely cause, the available access for cars and pedestrians, and the unique requirements of a specific event.
- (6) The City Manager or designee's disapproval of a proposed route may be appealed to the city council. Appeals shall be made in person at a regularly scheduled city council meeting at least three (3) meetings prior to the proposed event date.

(f) Any violation of this section is punishable as a misdemeanor.

(Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

Sec. 10-1-283. Block parties.

- (a) The term "block party" as used in this section is defined as a planned gathering of persons in which a public street will be closed that is sponsored by a business, place of worship, non-profit organization or community interest group.
- (b) Application for an event covered by this section shall be made in writing at least 10 business days before the time at which the event shall be scheduled to begin and shall contain the information outlined in the city's special event policy. An event application may be accepted after this deadline only if allowed as a late application permitted under the city's special event policy.
- (c) The applicant is responsible for notifying all property owners or residents in the area to be blocked off of the event using a form provided by the city. Any opposition by property owners or residents with direct frontage and/or access to the street to be closed may result in permit denial.
- (d) Upon receipt of an application properly completed and timely filed as hereinabove set out, the city manager or designee shall issue a permit after the applicant has complied with all applicable requirements imposed in accordance with the city's special event policy. The permit shall contain all information stated on the application and shall be signed by the City manager or designee.
- (e) The following standards shall apply to all block parties subject to this section conducted in the city:
 - (1) The block party may encompass an area of no greater than one block and the sponsoring organization must be located in that area;
 - (2) Block parties may have no more than 500 attendees at any one time;
 - (3) Block parties are still subject to all federal, state, and local laws, including the noise ordinance and alcohol laws.
 - (4) Police may end the party and order attendees to leave the street(s) if violation of this section occurs. After a reasonable time to allow for dispersal, the street(s) will be reopened and persons impeding the flow of traffic will be subject to arrest.

(f) Any violation of this section is punishable as a misdemeanor.

(Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

Commented [TNE149]: Criminalizing this because Brian Beasley wanted it criminalized. However, it may not be allowed to be criminalized under S.L. 2021-138 if races are considered a "form of amusement" under G.S. 160A-194.

Commented [TNE150]: Criminalizing this because Brian Beasley wanted it criminalized. However, it may not be allowed to be criminalized under S.L. 2021-138 if block parties are considered a "form of amusement" under G.S. 160A-194.

Sec. 10-1-284. Festivals.

- (a) The term "festival" as used in this section is defined as an outdoor concert, fair, community event, or similar event that is primarily commercial and/or recreational in nature.
- (b) Application for a festival covered by this section shall be made in writing at least 120 calendar days before the time at which the festival shall be scheduled to begin and shall contain the information outlined in the city's special event policy. A festival application may be accepted after this deadline only if allowed as a late application permitted under the city's special event policy.
- (c) Upon receipt of an application properly completed and timely filed as hereinabove set out, the city manager or designee shall issue a permit after the applicant has complied with all applicable requirements imposed in accordance with the city's special event policy. The permit shall contain all information stated on the application and shall be signed by the city manager or designee.
- (d) The following standards shall apply to all festivals subject to this section conducted in the city:
 - (1) The festival applicant and all persons involved in conducting the festival shall comply with all terms and conditions set out in the city's special event policy and all terms and conditions contained in the permit issued for the festival.
 - (2) The applicant shall be responsible for hiring and paying off-duty law enforcement officers, or reimbursing the city for the costs of providing on-duty law enforcement officers and other necessary personnel and equipment, to appropriately police street closures and the safety and security of participants and those in the vicinity of the event. The police and fire departments shall determine the number of officers, traffic control officers (in accordance with N.C.G.S. § 20-114.1), fire/EMS personnel, and transportation personnel needed to appropriately police street closures and for safety, security, and medical needs and the time when such services shall commence and end. The city may provide the services required by this subsection at no cost, or at a reduced cost, to the applicant should the city desire to provide such support to the event.
 - (3) The festival permit shall not be issued until the sponsor shall acquire sufficient insurance or approval by the city attorney to indemnify the city for damages or liability which the city might incur.

(f) Any violation of this section is punishable as a misdemeanor.

(Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

Commented [TNE151]: Criminalizing this because Brian Beasley wanted it criminalized. However, it may not be allowed to be criminalized under S.L. 2021-138 if festivals are considered a "form of amusement" under G.S. 160A-194.

DIVISION 2. PICKETING

Sec. 10-1-285. Picketing permitted; notice of intent and receipt required.

Peaceful picketing shall be permitted in the city provided the same is done under the following conditions:

- (a) No picketing shall be conducted on a public street or sidewalk and no person shall participate in the same unless notice of intent to picket has been given to the city manager or designee, and unless a receipt of such notice has been issued, except where provided below.
- (b) A group of 15 or more persons shall give notice of intent to picket. A group of fewer than 15 persons may give notice of intent to picket but is not required to do so. Whether a group consists of 15 or more persons such that notice is required shall be determined from the time immediately prior to initiating a

Commented [LAM152]: Criminalized as requested by Brian Beasley.

picket. If a group of less than 14 persons begins to picket without providing notice and becomes a group of 15 persons or more, the failure to provide notice of the picket shall not be a violation of this section. Notice given shall contain the following information:

- (1) The name, if any, of the organization or group sponsoring or proposing to picket unless the group indicates that it intends to picket anonymously, in which case no name is required;
 - (2) The location or locations in the city where the pickets propose to assemble and demonstrate;
 - (3) The date or dates on which the picketing is to occur;
 - (4) The name of the person and organization giving notice of intent to picket unless the person or organization indicates that it intends to picket anonymously, in which case no name is required;
 - (5) Whether or not persons below the age of eighteen (18) years are expected to participate; and
 - (6) The person or persons to be in charge of the activity and who will accompany it and carry any receipt of notice at all times.
- (c) It is unlawful for any picketer, as defined herein, to engage in the activity prohibited under N.C.G.S. §14-277.4A.
- (d) Upon the giving of notice of intent to picket, properly provided as hereinabove set out, the city manager or his designee shall immediately issue a receipt of notice. The receipt shall contain all information stated in the notice. Upon cessation of such picketing for a period of 24 hours or more, any notice previously provided shall no longer be effective for the purpose of section 10-1-285(a) and (b).

(e) Any violation of this section is punishable as a misdemeanor.

(Ord. No. 7417/18-46 , 5-21-18)

Sec. 10-1-286. Standards of conduct for picketing activity.

- (a) Picketing shall be conducted only on portions of the public street and sidewalk not used primarily for vehicular parking or moving traffic.
- (b) Picketers may carry written or printed placards or signs not exceeding 40 inches provided the words used are not fighting words or threats that would tend to provoke a reasonable person to breach the peace.
- (c) If picketers promoting different objectives, causes, actions or policies desire to use a sidewalk that is already used for picketing, the second in time picketers shall maintain a minimum of 20 feet of space from the first in time pickets at all times and at all adjacent points of potential contact. The chief of police or designee shall aid picketers in creating a minimum of 20 feet of space between the picketers in order to ensure safety for all picketers promoting different objectives, law enforcement, and the public, without regard to the purpose or content of objectives promoted by either picketers.
- (d) Picketers shall not at any time nor in any way obstruct, interfere with, or block: persons entering or exiting from vehicles; persons crossing streets or otherwise using the public street and/or sidewalk; the entrance or exit to any building or access to property abutting the street or sidewalk; or pedestrian or vehicular traffic.
- (e) No person observing, engaging in, or assisting in picketing shall bring to or allow to remain in the immediate area of picketing any vicious animal.
- (f) It shall be unlawful for a group of 15 or more persons to picket without filing a notice as required herein.
- (g) Any violation of this section is punishable as a misdemeanor. It shall be unlawful for any person to violate any provision of this section.

(Ord. No. 7417/18-46 , 5-21-18)

Commented [LAM153]: Criminalized as requested by Brian Beasley.

Created: 2021-09-14 11:18:00 [EST]

(Supp. No. 4)

Sec. 10-1-287. Hand-carried signs.

No sign or poster carried by hand in the picket shall be of greater density than eight (8) ply .030 thickness cardboard. No support for such sign or poster shall be of a metallic substance nor thicker than one (1) by three-fourth (¾) inches.

(Ord. No. 7417/18-46 , 5-21-18)

Commented [LAM154]: Brian Beasley said he wanted this provision criminalized, but the City might not want to charge people with a misdemeanor for the density of a sign.

Sec. 10-1-288. Interference with picketers prohibited; police authority to disperse crowds; failure to leave when ordered declared offense.

- (a) The police officers of the city may, in the event of violation of N.C.G.S. Ann. §14-288.4(a)(1) and §14-288.4(a)(2), direct the dispersal of persons so assembled and may arrest any person who fails to absent himself from the place of such assemblage when so directed by the police.
- (b) Whenever the free passage of any public street or sidewalk in the city shall be obstructed by a crowd, whether or not the crowd assembles as a result of or in connection with picketing, the persons composing such crowd shall disperse or move on when directed to do so by a police officer. It shall be unlawful for any person to refuse to so disperse or move on when so directed by a police officer as herein provided.

(c) Any violation of this section is punishable as a misdemeanor.

(Ord. No. 7417/18-46 , 5-21-18)

Commented [LAM155]: Brian Beasley said he wanted this provision criminalized.

Sec. 10-1-289. Severability.

If any part, subsection, paragraph, sentence, clause, phrase or word of this article shall be held to be void, invalid, or unconstitutional by a valid judgment or decree of court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this section and such remaining portions shall remain in full force and effect.

(Ord. No. 7417/18-46 , 5-21-18)

Sec. 10-1-290. Criminal penalty.

~~In accordance with N.C.G.S. §160A-175, violation of any provision of division 1 and division 2, with the exceptions as set forth herein, shall be a misdemeanor as provided in N.C.G.S. §14-4, punishable upon conviction by a fine not exceeding \$50.00 or by imprisonment not exceeding 30 days. Any violation set forth herein that is also a violation of any state law shall not be punishable under section 10-1-290 such that the violation would allow for duplicative punishments.~~

~~(Ord. No. 7417/18-46 , 5-21-18)~~

Commented [LAM156]: This was the general criminal provision which criminalized all of division 1 and 2. Since we are criminalizing individual sections, this section has been deleted.

ARTICLE Q Railroads¹⁶

Commented [TNE157]: PS does not recommend criminalizing these sections related to railroads as they are better enforced through civil penalties. Also, there are state statutes that regulate railroads. Not identified by Brian Beasley as something to criminalize.

¹⁶Cross reference(s)—Driver's obedience to signal on approach of train, § 10-1-111; pedestrian's obedience to signals, § 10-1-136.

Sec. 10-1-301. Shifting trains; flagmen; obstructing crossings.

Every railroad company while shifting cars across any public grade crossing within the corporate limits of the city, except where there is maintained and operated at any such crossing, gates, watchmen, bells, flashers, or other automatic signal devices, shall post a flagman ahead of each train or part of train which is moving to warn people of danger. The speed of every shifting train shall be limited and completely under the control of the engineer so that the engine or train can be stopped on short notice. No person, or railroad company, shall suffer any street, sidewalk or crossing within the city limits to become partially or wholly obstructed by cars, trucks, engines, etc., for more than five (5) minutes at a time. Any violation of this section shall subject the railway company to a fine of \$25 for each offense.

Sec. 10-1-302. Reserved.

Editor's note(s)—Section 1 of Ord. No. 90-83, adopted Oct. 4, 1990, repealed § 10-1-302 in its entirety. Formerly, § 10-1-302 pertained to speed limits of trains running through the city and adequate signals at grade crossings and derived from the 1982 Code.

Sec. 10-1-303. Automatic signals or flagmen at certain railroad crossings.

All railroad companies shall be required to afford protection to the public by maintaining combined flashing and automatic gates and bell signals or by placing a flagman, properly equipped with danger signals, so as to adequately warn pedestrians, motorists and all other persons using such crossing of all approaching trains at all grade level crossings maintained by them within the city limits.

(Code 1958, § 17-5)

Sec. 10-1-304. Duty of railroads to maintain crossings in safe conditions.

- (a) It shall be the duty of all railroad companies owning or operating railroads within the limits of the city to keep all grade crossings and overhead bridges, used by vehicles or pedestrians, or both, in a smooth, level, clean and perfectly safe condition at all times, by paving same with wood, brick, concrete, stone or other suitable material. The crossing shall be so maintained for the full width of the street and sidewalks and for the full distance of the railroad right-of-way on both sides of the tracks.
- (b) Any railroad company failing to keep and observe the requirements of this section shall be subject to a penalty of \$25 for each offense. Each day's failure or neglect on the part of any railroad company to keep and observe any of the requirements or provisions of this section shall constitute a separate and distinct offense.

(Code 1958, Sec. 17-6)

ARTICLE 5 Photographic Surveillance

Sec. 10-1-306. Traffic control photographic systems.

- (a) *Administration.* The City of High Point shall implement a system for capturing traffic control violations, as defined under G.S. 20-158, with a traffic control photographic system that will use the photographic images

Commented [LAM158]: PS does not recommend criminalizing this section related as it's better enforced through civil penalties. Also, this section was not identified by Brian Beasley as something to criminalize.

as prima facie evidence of the traffic violations and will authorize the High Point Department of Transportation or an agent of the department to issue civil citations.

The City of High Point Department of Transportation shall administer the traffic control photographic program and shall maintain a list of system locations where traffic control photographic systems are installed.

Any citation for a violation for G.S. 20-158 or other traffic violation, issued by a duly authorized law enforcement officer at a system location shall be treated, pursuant to G.S. 20-176, as an infraction so long as the system photographic images are not used as prima facie evidence of the violation.

The citation shall clearly state the manner in which the violation may be reviewed. The citation shall be processed by officials or agents of the city and shall be forwarded by personal service or first-class mail to the owner's address as given on the motor vehicle registration.

(b) *Offense.*

- (1) It shall be unlawful for a vehicle to cross the stop line at a system location when the traffic signal for that vehicle's direction of travel is emitting a steady red light, or for a vehicle to violate any other traffic regulation specified in G.S. 20-158.
- (2) The owner of a vehicle shall be responsible for a violation under this section, unless the owner can furnish evidence that the vehicle was in the care, custody or control of another person at the time of the violation, as describe in subsection (3).
- (3) Notwithstanding subsection (2), the owner of the vehicle shall not be responsible for the violation if, within 30 days after notification of the violation, the owner furnishes the officials or agents of the city either of the following:
 - (i) An affidavit stating the name and address of the person or entity who had the care, custody, and control of the vehicle at the time of the violation; or
 - (ii) An affidavit stating that, at the time of the violation, the vehicle involved was stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information.
- (4) This section shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than 90 days after the date of the violation.
- (5) The owner of a vehicle that has been leased or rented to another person or company shall not be liable for a violation pursuant to this section if, after receiving notification of the civil violation within 90 days of the date of occurrence, the owner, within 30 days thereafter, files with the officials or agents of the city an affidavit including the name and address of the persons or company that leased or rented the vehicle. If notification is given to the owner of the vehicle after 90 days have elapsed from the date of the violation, the owner is not required to provide the name and address of the lessee or renter, and the owner shall not be held responsible for the violation.

- (c) *Penalty.* Any violation of this section shall be deemed a noncriminal violation for which a civil penalty of \$50.00 shall be assessed [in accordance with Section 1-1-4 of the Code and G.S. 160A-175](#), and for which no points authorized by G.S.20-16(c) shall be assigned to the owner or driver of the vehicle, nor insurance points as authorized by G.S. 58-36.65. Failure to pay the civil penalty or to respond to the citation within 21 days shall constitute a waiver of the right to contest responsibility for the violation and shall subject the owner to a civil penalty not to exceed \$100.00. The city shall establish procedures for the collection of the civil penalties and shall enforce the penalties by a civil action in the nature of a debt.

(d) *Nonjudicial administrative hearing.* The City of High Point Department of Transportation shall establish an administrative process to review objections to citations or penalties issued or assessed. A notice requesting a hearing to review objections shall be filed within 21 days after notification of the violation. An individual desiring a nonjudicial hearing must post a bond in the amount of \$50.00 before a hearing will be scheduled. The hearing officer's decision is subject to review in the Superior Court of Guilford County by proceedings in the nature of certiorari.

(Ord. No. 00-89, § 2, 7-20-00; Ord. No. 01-68, § 1, 8-16-01; Ord. No. 6071/03-45, § 1, 8-21-03; Ord. No. 6074/03-48, § 1, 9-2-03)

Title 11 LICENSING AND REGULATION

- (b) The license fee for public dance halls and public dances shall be as fixed from time to time by the city council.

CHAPTER 2 Taxicabs¹⁷

ARTICLE A General Information

Sec. 11-2-1. Purpose.

The purpose of this chapter is to regulate the taxicab business in order to preserve the health and welfare of the citizens and visitors of High Point and the protection of their property, and to promote safe, reliable, and economically viable taxicab service.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-2. Definitions.

The following words and phrases, when used in this chapter, shall have the following meanings except where the context clearly indicates a different meaning.

City means the City of High Point, North Carolina.

City council means the City Council of the City of High Point, North Carolina.

Certificate means a certificate of public convenience and necessity issued by the city clerk upon approval by the city council to engage in the taxicab business as provided in this chapter.

Driver means any person operating or in charge of a taxicab.

Employee means any manager, dispatcher, mechanic, driver, contract driver, agent, or other individual who is compensated by a certificate holder in the conduct of its business.

Limousine service means personal motor vehicle transportation service in which an agreement for transportation is entered into more than 24 hours before the service, and the motor vehicle is not owned or operated by a person to whom a certificate has been issued by the city.

Manifest means the daily record prepared by the driver for the vehicle he or she operates.

Owner means the person to whom a certificate has been issued.

Person means an individual, firm, partnership, corporation or association.

Commented [LAM159]: Contains a general provision criminalizing entire chapter. However, most of chapter can no longer be criminalized after S.L. 2021-138. I identified the ones that may still be able to be criminalized because they do not fall under G.S. 160A-304.

¹⁷Editor's note(s)—Ord. No. 6159/04-56, § 2, adopted Aug. 5, 2004, amended ch. 2 in its entirety to read as herein set out. Former ch. 2, §§ 11-2-1—11-2-51, pertained to vehicles for hire, and derived from the 1958 Code, §§ 21-1—21-14, 21-16.1—21-30, 21-32—21-34, 21-36, 21-38—21-44, 21-46, 21-46.1; Ord. No. 97-37, § 1, adopted May 1, 1997; Ord. No. 97-77, § 1, adopted Sept. 18, 1997; Ord. No. 98-37, § 1, 2, May 4, 1998; and Ord. No. 00-08, § 1, adopted Jan. 20, 2000.

Taxicab means any vehicle that solicits to carry, attempts to pick up, or picks up one (1) or more persons for transportation from one (1) place to another for a fee. This term excludes buses with seating capacities of 16 or more passengers (including the driver) operating upon fixed routes and between fixed termini. This term also excludes limousine service. The terms taxicab, taxi, and cab are synonymous. Evidence of intent to operate as a taxicab may include, but is not limited to, markings on a vehicle or sign, beckoning from or near a vehicle to pedestrians, or parking or stopping in a marked taxi stand.

Taximeter means a mechanical device in a vehicle for the purpose of computing the fare for a trip upon the basis of distance traveled, waiting time, or both.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-3. Compliance with chapter required.

It shall be unlawful for any person to violate the provisions of this chapter, or to operate or allow to be operated a taxicab within the corporate limits of the city unless a certificate has been issued for its operation. This chapter shall not apply to taxicabs that enter the city solely to drop off passengers, if the taxicab is properly licensed by the jurisdiction in which the taxicab picked up the passenger(s). This chapter shall not apply to vehicle(s) operating under written contract with the International Home Furnishings Market Authority to provide transportation during the International Home Furnishings Markets; provided, however, that such vehicles may be restricted to designated areas of parking, stopping, passenger pick-up and passenger discharge by the director of transportation or the taxicab inspector.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-4. Penalty.

~~Any act constituting a violation of this Chapter or a failure to comply with any of its requirements shall subject the offender to civil penalty in accordance with Section 1-1-4 of this Code(a) Pursuant to North Carolina General Statute 160A-175(c), and in addition to any other sanction imposed under this chapter, there is hereby imposed a civil penalty in the amount of \$75.00 for violation of any of the provisions of this chapter. Civil penalties are to be paid to the city collections division or appealed to the city manager's office within 10 days of issuance of civil penalty notice. Failure to pay or appeal a civil penalty notice will result in the penalty being recovered by the city in a civil action in the nature of a debt.~~

~~(b) In addition to civil penalty, any violation of this chapter shall also be punishable as a misdemeanor under NCGS 14-4, and shall subject the offender to a fine of not more than \$500.00, or imprisonment for not more than 30 days, or both.~~

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-5. Designation of a taxicab inspector.

The chief of police shall designate a taxicab inspector from within the police department, who shall be responsible for the inspection of taxicabs and the administration of this chapter. The taxicab inspector may be a civilian or sworn law enforcement employee of the police department. Enforcement of this chapter shall be the responsibility of the taxicab inspector and any city police officer. A civilian taxicab inspector is hereby given authority to issue a civil penalty for violations of this chapter.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Commented [TNE160]: Added this new language to conform with the new language in Sect. 1-1-4.

Commented [LAM161]: General provision criminalizing entire chapter has been removed.

Secs. 11-2-6—11-2-9. Reserved.

ARTICLE B Certificate of Public Convenience and Necessity

Sec. 11-2-10. Requirements.

- (a) In order to operate a taxicab company within the city, a person must apply for and receive a certificate of public convenience and necessity from the city council.
 - (b) Minimum eligibility requirements for a holder of a certificate shall include:
 - (1) Maintaining a fleet of at least seven (7) taxicabs; marked, state registered, and insured;
 - (2) Serving the entire geographical area of the city;
 - (3) Operating 24 hours a day, and seven (7) days a week;
 - (4) Operating a 24-hour dispatch system, seven (7) days a week;
 - (5) Being accessible by toll free calls from all High Point telephone numbers, 24 hours a day;
 - (6) Maintaining an office in the city for the operation of the taxicab business, which office, or other facilities shall be in continuous compliance with all zoning and other city regulations; and
 - (7) Being responsible, able and willing to comply with the provisions of this chapter as determined in the sole discretion of the city council.
 - (c) Each holder of a certificate shall upon issue thereof, and yearly thereafter, pay to the city a vehicle and records inspection fee of \$15.00 per vehicle, based upon the maximum number of taxicabs permitted under the certificate.
 - (d) If an applicant has met all eligibility requirements under subsection (b) above except that the applicant has failed to maintain a fleet of seven (7) taxicabs, the city council may, upon request, grant a probationary license for a period of up to, but not exceeding, 12 months from the date in which the probationary license is granted. All probationary license holders shall abide by and be subject to all local and state laws governing taxicabs. At the end of the probationary period, the taxicab inspector will make a report to the city council on the applicant's status. If the applicant fails to meet or meets but fails to maintain the seven (7) taxicabs minimum requirement within the probationary period, the city council shall revoke the probationary license.
- (Ord. No. 6159/04-56, § 2, 8-5-04; Ord. No. 7047/14-25A, § 1, 3-17-14)

Sec. 11-2-11. Application.

- (a) Each initial or subsequent application for a certificate shall be accompanied by a receipt of payment to the city collections division of an application fee of \$75.00.
- (b) Application for a certificate shall be made to the city council by completing an application that is provided by the city manager's office. The completed application and any attachments are to be filed with the city manager's office. The applicant shall furnish to the city manager such other information as may be required.
- (c) An application for a certificate shall be filed during the months of May or November. The city manager will forward the application to the taxicab inspector to review the sufficiency and veracity of the information contained therein. Submission of an application gives express permission from the applicant for the taxicab inspector to investigate any criminal, employment, or credit history of the applicant.

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- (d) Upon completion of review of the application, the taxicab inspector shall forward his or her findings to the city manager. The city manager shall refer applications submitted to city council for consideration as soon as practical but not later than 60 days after receiving the taxicab inspector's findings.

(Ord. No. 6159/04-56, § 2, 8-5-04; Ord. No. 7047/14-25A, § 2, 3-17-14)

Sec. 11-2-12. Public hearing on application.

- (a) The city council shall conduct a public hearing for the purpose of considering any information pertinent to the question of issuance of a certificate, after notice has been given by mail to all holders of a certificate and all applicants for a certificate at the address shown on their certificate or application and published in a newspaper of general circulation in the city at least once not less than 10 days prior to the hearing. Any certificate shall be issued only after it has passed by ordinance at two (2) regular meetings of city council.

- (b) Any hearing may be continued from a time to time without further notice.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-13. Determination of public convenience and necessity.

The city council shall determine in its discretion whether a certificate shall be issued and shall consider:

- (1) The adequacy of existing taxicab service and other forms of available public transportation.
- (2) The probable permanence and quality of the services to be offered by the applicant.
- (3) The adequacy of the applicant's commercial insurance.
- (4) The number and condition of the vehicles and the location and characteristics of termini proposed to be used.
- (5) The experience of the applicant in the taxicab industry.
- (6) The applicant's character, experience, and ability to comply with the requirements of this chapter.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-14. Power of city council to grant or refuse certificate.

- (a) The city council shall have the authority to grant a certificate as applied for, or to grant a certificate to the applicant for a lesser number of taxicabs than specified in the application, or to deny the application in the exercise of its sound discretion after consideration of the factors prescribed in section 11-2-13.
- (b) Each certificate shall be granted for a maximum number of taxicabs, but not less than seven (7).
- (c) A holder of a certificate may request an increase in the maximum allowable number of taxicabs according to the procedure in section 11-2-11.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-15. Form and contents of certificate.

The form of a certificate shall be prescribed by city council and shall contain the name and address of the owner and the maximum number of taxicabs allowed. It shall state that it is issued subject to the provisions of this

chapter and all other applicable laws. A certificate shall be issued for an indefinite period and shall have no expiration; however, this does not waive any annual business license fees due.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-16. Certificate constitutes franchise; subject to revocation.

- (a) A certificate shall constitute a franchise from the city for the operation of taxicabs within the city up to the maximum number named in the certificate. The city council shall have the authority to revoke a certificate in its discretion. The city manager has the authority to suspend a certificate for up to 30 days, pending city council decision. Upon revocation or suspension, the certificate is to be turned over to the taxicab inspector and taxicab operations thereunder are to cease immediately.
- (b) No certificate shall be revoked or suspended until the certificate holder has had at least five (5) days notice by personal service or by certified mail directed to the address on its application, stating briefly the basis for the revocation or suspension and the time and place of a hearing. After the hearing, the city council or the city manager shall have the power to revoke or suspend a certificate or to conditionally revoke or suspend the certificate upon compliance with an order as fixed by city council or the city manager.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-17. Transferability.

A certificate may not be transferred or assigned without the prior approval of the city council. Change of company ownership shall automatically revoke a certificate granted under this chapter. The purchaser of a taxicab company shall not operate a taxicab until a certificate has been applied for and issued to the purchaser as provided in this chapter.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-18. Causes for suspension, revocation and application denial.

- (a) A certificate may be revoked or suspended by city council or the city manager for any of the following reasons:
 - (1) Failure to operate taxicabs on a 24-hour basis.
 - (2) Failure to maintain vehicles in good order and repair or as required by state law.
 - (3) Failure to maintain liability insurance as required by this chapter.
 - (4) Failure to pay business license fees.
 - (5) A pattern of traffic or safety violations by drivers.
 - (6) Failure to comply with any provision of this chapter.
 - (7) Unauthorized transfer of certificate.
 - (8) False or misleading statement on a certificate application.
 - (9) The certificate holder's conviction or charge of any of the following offenses:
 - a. Any felony.
 - b. Any state or city law relating to prostitution.

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- c. Any state or city law relating to the sale or possession of a controlled substance.
 - d. More than three (3) convictions of state or local traffic laws within a 12-month period.
 - e. Permitting operation of a taxicab by a person without a taxicab driver permit.
- (b) The taxicab inspector is authorized to conduct an independent investigation into the facts of a potential violation, and report the findings to the city manager or city council. A court verdict of not guilty or a dismissal of a criminal charge shall not be considered as evidence that the act was not committed.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-19. Criminal history check for certificate applicants.

A criminal records check shall be performed on all certificate applicants. Fingerprint cards of the applicant shall be presented to the North Carolina State Bureau of Investigation and the Federal Bureau of Investigation and processed as allowed by applicable law.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-20. Reserved.

Sec. 11-2-21. Certificate holder responsibilities.

A certificate holder shall maintain on file for inspection by the taxicab inspector the names of all employees, drivers, their addresses, telephone numbers and driver license numbers. A certificate holder is to maintain a file of all complaints received for inspection by the taxicab inspector. Certificate holders are responsible for the actions of their employees when on-duty.

A certificate holder is responsible for the conduct of its drivers. The certificate holder is also responsible for the condition of all vehicles and equipment operated as taxicabs by it. Actions of drivers or employees in violation of this chapter shall be imputed to the holder of a certificate whose responsibility it shall be to insure compliance.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-22. Manifest records.

Certificate holders shall collect driver manifests at the end of the driver's tour of duty. Manifest forms shall be supplied by the certificate holder to the drivers and contain the driver's name, cab number, beginning and ending times of duty, address of origin and destination of every trip, number of passengers, amount of fare for every trip, and any other information deemed necessary by the certificate holder or taxicab inspector. Manifests are to be kept on file for no less than 90 days, and are subject to inspection by the taxicab inspector or any city police officer.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-23. Vehicle inspections by owner.

Every certificate holder should institute a systematic and periodic inspection of its fleet to insure that all vehicles comply at all times with this chapter.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Secs. 11-2-24—11-2-29. Reserved.

ARTICLE C Vehicle Specifications and Equipment

Sec. 11-2-30. Compliance with state law.

No taxicab shall be operated in the city unless the vehicle complies with all applicable state statutes regarding vehicle registration, safety and emissions inspections, equipment regulations, and tax laws.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-31. Financial responsibility.

- (a) No person shall allow the operation of a taxicab within the city without complying with G.S. 20-280. In addition to this compliance, no person shall allow the operation of a taxicab within the city unless there is on file with the taxicab inspector a commercial insurance policy, or satisfactory proof of policy, for the taxicab. This policy shall remain in full force and effect during the operation of the taxicab. The policy must maintain minimum commercial liability limits of \$100,000.00 because of bodily injury to or death of one (1) person in any one (1) accident and, subject to said limit for one (1) person, \$300,000.00 because of bodily injury to or death of two (2) or more persons in any one (1) accident, and \$50,000.00 because of injury to or destruction of property of others in any one (1) accident.
- (b) Every driver of a taxicab being operated out of the city shall carry and produce to any requesting law enforcement officer a card listing the current auto insurance company and policy number covering the taxicab. Carrying and producing a state automobile registration card with current and correct insurance information shall be deemed to comply with this subsection.

(Ord. No. 6159/04-56, § 2, 8-5-04; Ord. No. 6837/11-45, § 2, 8-15-11; Ord. No. 6842/11-50, § 2, 9-19-11; Ord. No. 7623/20-39, 8-3-20)

Sec. 11-2-32. Vehicle markings.

- (a) Each certificate holder shall adopt a color and markings scheme for its taxicabs distinct from that of any other certificate holder. The paintings and markings are subject to the approval of the taxicab inspector. All taxicabs operating under one (1) certificate shall be identical in painting and markings. The name of the taxicab company and the taxicab vehicle number must be permanently marked on each side and the rear of the taxicab. The taxicab company's telephone number must be permanently marked on each side of the taxicab. All letters and numbers must be at least two (2) inches in height, sharply contrasted with the background, clearly visible and placed as directed by the taxicab inspector. No certificate holder may assign a specific vehicle number to more than one (1) taxicab.
- (b) A taxicab may be equipped with, but shall not be required to have, an exterior top/advertisement light of a type approved by the taxicab inspector.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-33. General vehicle requirements.

- (a) Each taxicab must be clean, operable, and in good repair. The trunk must be clean and empty, except for one (1) spare tire and necessary emergency equipment.
- (b) Each taxicab must have a minimum of three (3) doors, two (2) doors allowing entry to the driver's compartment and at least one (1) door allowing entry to the passenger's compartment. All doors of the taxicab must be operable from an interior and exterior handle.
- (c) All seat safety belts that were originally installed by the vehicle manufacturer shall be accessible and in working order in each taxicab.
- (d) The windshield and windows of each taxicab must be maintained free of cracks, scratches and any material or condition that reduces the clarity of vision of the driver.
- (e) Each taxicab shall have the following appliances or devices in good working order with operable on and off controls, if applicable:
 - (1) All manufacturer's front windshield wipers.
 - (2) Windshield defroster.
 - (3) Passenger compartment heater.
 - (4) Air conditioner.
 - (5) Interior light, with operable on/off switch independent of the doors.
 - (6) Speedometer.
 - (7) A two-way radio mounted in the taxi.
- (f) All upholstery covering or interior lining in a taxicab must be substantially free of cuts or tears and ceiling lining may not sag more than one (1) inch.
- (g) All exterior paint and body of a taxicab shall be maintained in good condition, free of substantial rust, dents, scratches, chips and abrasions.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-34. Taximeter.

Every taxicab shall have installed in it an operable taximeter of a design approved by the taxicab inspector. The taximeter must be inspected by the taxicab inspector prior to use to determine fares. A taximeter shall be in such condition that it is not more than five (5) percent from absolute distance accuracy. All manufacturer's lights on the taximeter shall operate. The taximeter shall be accurate in accordance with the current waiting-time rate and distance rate as set by city council.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-35. Display of rate.

Every taxicab shall have displayed in or on the taxicab, clearly visible to passengers, the current rates of taxicab service.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-36. Taxicab inspections.

- (a) Before operation of a taxicab, it must have passed an inspection of equipment by the taxicab inspector. The taxicab inspector shall specify a date when the current inspection shall expire and another inspection shall be necessary. A certificate holder shall deliver all of its taxicabs in operation to a location designated by the taxicab inspector at a specified date and time for inspection.
- (b) The taxicab inspector shall have the authority, at any time, to enter into or upon a taxicab at any location for the purpose of determining compliance with this chapter.
- (c) A taxicab which is found to be unsafe in any way or not in compliance with this chapter may be ordered out of service by the taxicab inspector and operation of the taxicab before approval by a taxicab inspector shall be unlawful and subject the certificate holder and any other person allowing the operation of the taxicab to criminal and/or civil penalties.
- (d) A taxicab inspection fee of \$5.00 shall be paid by the owner of the vehicle to the city collections division for each regularly scheduled taxicab inspection and every initial inspection. Receipt of payment shall be presented to the taxicab inspector performing the inspection. Upon a failure to pass an inspection, a reinspection will be performed at no charge. A field inspection initiated by a taxicab inspector, at a time other than regularly scheduled inspections, shall be at no charge. A taxicab that has passed the most recent regularly scheduled inspection that is taken out of service by a taxicab inspector shall be reinspected at no charge.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Secs. 11-2-37—11-2-45. Reserved.

ARTICLE D Taxicab Drivers

Sec. 11-2-46. Drivers, generally.

Drivers of taxicabs shall be clean and neat in dress and person.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-47. Taxi driver permit required.

No person shall operate a taxicab without having in his or her possession a valid taxicab driver permit. Permits shall be valid for one (1) year from date of issuance and shall be renewed annually. The process and fee for new and renewal permits shall be \$7.00. Permits are to be produced upon request by the taxicab inspector or a city police officer, and displayed to any requesting passenger or potential passenger.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-48. Form of application for taxicab driver permit.

- (a) Each applicant for a taxicab driver permit shall make application on a form provided by the police department. The application shall contain the applicant's name, address, physical condition, former employers, criminal history, and driver license number and state of issue, and any other information required on the application.

Commented [TNE162]: Needed to decriminalize with a language change here.

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- (b) The application shall be signed by the applicant. The applicant shall be fingerprinted and photographed as directed by the taxicab inspector. The application is to be submitted to the taxicab inspector or his or her designee and approved or denied within 10 days.

(Ord. No. 6159/04-56, § 2, 8-5-04; Ord. No. 7506/19-23, 3-4-19)

Sec. 11-2-49. Driver qualifications.

- (a) Each applicant or holder of a taxicab driver permit shall:
- (1) Be at least 18 years of age, and eligible to work in the United States.
 - (2) Have possessed a driver license for the past 12 months issued by any state of the United States.
 - (3) Not have committed an offense of driving while subject to an impairing substance or with an alcohol concentration of 0.08, or more, within five (5) years.
 - (4) Not have committed a felony within five (5) years.
 - (5) Not have committed an offense involving prostitution or controlled substances within five (5) years.
 - (6) Not have been convicted of more than two (2) motor vehicle moving violations in the past 12 months.
- (b) A taxicab driver applicant must not be physically or mentally incapable of operating a taxicab. Upon request by the taxicab inspector, the applicant must submit a written opinion from a physician stating that the applicant is physically capable and/or mentally competent to operate a taxicab.
- (c) The applicant shall not make a material false or misleading statement on the application for a taxicab driver permit. An applicant cannot submit more than one (1) application in any 90-day period.
- (d) Upon denial or failure of application approval, the applicant may request a hearing in writing with the city manager, or his or her designee. A hearing shall be set within 10 days of such request, and notice of the time and place of the hearing shall be sent to the applicant by certified mail to the address as listed on the application. A decision shall be made within 15 days of the hearing. A taxicab driver whose driver permit is revoked by the taxicab inspector is also entitled to a hearing as outlined in this section, if the taxicab driver makes written request within 10 days of revocation.
- (e) An applicant or taxicab driver shall have a valid North Carolina driver's license. Upon revocation of a driver's license by the North Carolina Division of Motor Vehicles or a court, a taxicab driver permit becomes immediately revoked.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-50. Refusal of a driver permit.

The taxi inspector or his or her designee may refuse to grant or renew a taxicab driver permit for any person who is not in compliance with section 11-2-49.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-51. Criminal history check for driver applicants.

A criminal records check shall be performed on all taxicab driver applicants. Fingerprint cards of the applicant shall be presented to the North Carolina State Bureau of Investigation and the Federal Bureau of Investigation and processed as allowed by applicable law.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-52. Investigations of taxi drivers.

The taxicab inspector is authorized to conduct independent investigations of a taxicab driver or permit applicant concerning violations of this chapter.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-53. Revocation of a driver permit.

The taxicab inspector may revoke a taxicab driver permit for any violation enumerated in section 11-2-49. When a taxicab driver permit is revoked, the holder shall cease operation of taxicabs immediately and surrender the permit to the taxicab inspector.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-54. Daily manifests.

Every taxicab driver is to maintain a daily manifest in ink. The beginning tour of duty is to be filled out at the beginning of the driver's shift. The originating address of a trip is to be completed upon passenger pick up. The destination address and fare charged is to be completed immediately at the end of the trip.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-55. Deception of passengers.

No taxicab driver shall deceive or attempt to deceive any passenger or potential passenger as to the passenger's destination or the rate of fare to be charged, or shall convey any passenger to a place other than directed by the person paying for the fare. In no event shall any taxicab driver take a longer route to a destination than necessary, unless so requested by the passenger. Drivers are to be familiar with the city and all other requested destinations of a passenger(s). A taxicab driver's mistake in choosing a route shall not be cause for a taxicab driver to charge more than the fare for the most direct route.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-56. Overcharging prohibited.

No driver shall charge or attempt to charge any passenger a greater rate of fare than that which is currently allowed.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-57. Method of determining fare.

It shall be unlawful for a taxicab driver to operate a taxicab unless a taximeter is used to determine the fare to be charged. The taximeter is to be a meter approved by a city taxicab inspector to be used in the specific taxicab in which it is being used. It is unlawful to operate a taxicab with a taximeter that has not been approved by a city

taxicab inspector for that specific taxicab. It is unlawful for a driver to operate a taxicab in which the driver knows the taximeter in the taxicab is not accurate.

For a destination that is outside the city limits, the driver shall provide the passenger(s) with a flat rate prior to transport. The rate must be agreed upon between the driver and the passenger before the trip begins. The agreement may include running the taximeter the entire trip, as opposed to a flat rate. The taximeter must be in activation while inside city limits, in the event the passenger(s) decides to terminate the trip before leaving the city.

A driver may refuse any trip to a destination outside the city limits.

Holders of a certificate are encouraged to establish rates to area airports and downtown cities to help prevent inconsistent rates for these areas and make these rates available to their dispatchers.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-58. Restriction on number of passengers.

No driver shall permit more persons to be carried in a taxicab at any one (1) time than the seating capacity of such vehicle allows, as set by the vehicle manufacturer.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-59. Accepting additional passengers.

Whenever any taxicab is occupied by a passenger(s), the driver shall not permit any other person to occupy or ride in such taxicab if the original passenger(s) object thereto. If a child under 14 years of age is the original passenger, no other passenger shall be permitted in such taxicab without the consent of the parent or guardian of the original passenger.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-60. Annoying manner of soliciting patronage prohibited.

It shall be unlawful for any person to solicit patronage for a taxicab in a loud or annoying tone of voice, or by any sign or in any manner to annoy any person or to obstruct the movement of any person. No person shall follow or touch another person or the luggage or belongings of another person for the purpose of soliciting taxicab service without the consent of that other person.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-61. Refusal to carry orderly passenger.

No driver shall refuse or neglect to transport any orderly person, upon request, unless the taxicab is already engaged or forbidden by the provisions of this chapter. Nothing herein shall prohibit the requirement of prepayment or deposit by a driver from a passenger.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Commented [LAM163]: Could be criminalized because it is outside the scope of 160A-304, but PS suggests decriminalizing to keep consistency with the taxi regulations and because this type of issue is probably better enforced with civil penalties instead of criminal ones.

Sec. 11-2-62. Compliance with passenger requests.

All drivers shall comply with all reasonable and lawful requests of a passenger(s) as to the speed of travel and the route to be taken.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-63. Limitation on hours of driving.

It shall be unlawful for a taxicab driver to continue on duty for more than 12 hours of active driving time or more than 16 hours of on-duty time during any 24-hour period. Each driver shall record the time of commencing active duty and the time of ending active duty on the driver manifest.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-64. Use of tobacco.

The use of cigarettes or cigars is prohibited by drivers while transporting a passenger. The use of tobacco is prohibited by a passenger(s) while in a taxicab, if so ordered by the driver.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-65. Lost articles.

Every driver of a taxicab shall thoroughly search the interior of such taxicab at the termination of each trip for any article of value that may be left in the taxicab by a passenger. An article found therein shall immediately be returned to the passenger who left the article. If the owner of the article is not known or unable to be located, the driver shall deposit the article with the taxicab company owner at the end of the driver's tour of duty. The taxicab owner shall file a written notice with the taxicab inspector within 24 hours, describing the article, date and time of loss, and the origin and destination of the trip of the passenger who lost the article.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-66. Furnishing receipt.

When requested by a passenger, every driver shall give a legible receipt showing the taxicab company name, the driver's name, the taxicab number and any item for which a charge was made. The receipt shall also include that total amount paid and the date of such payment.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-67. Attending taxicab by driver.

No driver or any other person shall solicit passengers for a taxicab except when sitting in the driver's seat of the taxicab or while standing within five (5) feet of the taxicab.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-68. Receiving and discharging passengers.

It shall be unlawful for the driver of a taxicab to receive or discharge passengers while impeding the flow of vehicular or pedestrian traffic. Drivers should receive and discharge passengers in appropriate taxicab stands, loading zones and curbsides out of the flow of traffic. Drivers should discourage passengers from entering and exiting taxicabs while stopped at traffic signals and in travel lanes.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-69. Portable phone communication.

Drivers may communicate with dispatchers and a potential passenger(s) by portable telephone communication, however, a driver shall not pick up or transport any passenger without first notifying his or her dispatcher of the trip and recording the trip as required by section 11-2-54.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-70. Alcohol possession.

It shall be unlawful for a driver to operate a taxicab, whether on duty or off duty, with any alcoholic beverage, whether opened or unopened, in the passenger compartment of the taxicab. This section shall not include nor prohibit the possession of an alcoholic beverage in the possession of a bona fide passenger. Drivers shall not allow passengers to violate city or state laws regarding alcoholic beverages, while in their taxicabs.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Secs. 11-2-71—11-2-80. Reserved.

ARTICLE E Miscellaneous Provisions

Sec. 11-2-81. Vehicle resembling a taxicab.

It shall be unlawful for any person to operate a vehicle, which is not a licensed taxicab, with painting or markings that would cause a reasonable person to believe that such vehicle is a taxicab. A city taxicab that ceases to be authorized as a taxicab shall have its colors and markings removed, changed, or altered so as not to resemble a taxicab before any operation in the city and may not be visible from any public way, until such removal, change, or alteration, is completed.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-82. Defrauding taxicab.

Any person who engages, uses, employs or hires a taxicab and then fails or refuses to pay the required fare with intent to cheat and defraud the taxicab owner or driver shall be guilty of a misdemeanor. This section not only applies to intra-city trips, but also to legally licensed taxicabs from other jurisdictions that enter the city to reach a destination, where the failure or refusal to pay occurs within the city. A violation of this section is punishable as a misdemeanor.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Commented [LAM164]: Could be criminalized because it is outside the scope of 160A-304. PS has gone ahead and criminalized this section because a dispute regarding what money is owed for a taxicab service is serious and warrants criminal enforcement.

Secs. 11-2-83—11-2-99. Reserved.

ARTICLE F Market Taxicabs

Sec. 11-2-100. Market taxicabs.

During the International Home Furnishings Markets in the city, the city taxicab companies are not able to handle the greatly increased public transportation needs and therefore temporary taxicab permits are authorized as provided in this article.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-101. Temporary taxicab licensing.

- (a) An applicant for a temporary taxicab permit is required to be familiar with the provisions of this chapter. An applicant must submit a copy of state vehicle registration cards for each vehicle to be operated in the city as a taxicab. Each vehicle must be state-registered as a "for-hire" vehicle. A copy of an auto insurance certificate from an insurance company authorized to do business in North Carolina, with commercial liability limits in compliance with this chapter, must be submitted showing such coverage on each vehicle to be operated. A fee of \$50.00 is to be tendered along with application to the city business license office for each vehicle.
- (b) In addition to the requirements set forth in subsection (a), an applicant for a temporary taxicab permit must comply with the following:
 - (1) All vehicles to be operated must have passed an inspection by a taxicab inspector of the jurisdiction where the vehicle is normally operated, substantially similar to that of inspections conducted on taxicabs in the City of High Point, as determined by the High Point taxicab inspector; or in the absence thereof, the vehicle must have an inspection certificate from the High Point taxicab inspector.
 - (2) A driver must have a taxicab driver permit in his or her possession while operating a taxicab, issued by a jurisdiction where the driver normally operates a taxicab, such permit obtained under regulations substantially similar to that of the City of High Point, as determined by the High Point taxicab inspector; or in the absence thereof, the driver shall obtain a High Point taxicab driver permit.
 - (3) All vehicles to be operated are to be permanently marked so as to be readily identifiable as a vehicle available to transport passengers for a fee.
 - (4) All vehicles licensed under this article are subject to all of the applicable regulations of this chapter.
 - (5) The taxicab inspector may implement rules from time to time that he or she deemed necessary to ensure the safety and efficiency of temporary taxicab service.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-102. Temporary taxicab permit.

The city business license office shall issue a temporary taxicab permits not to exceed the maximum number set by the taxi inspector. Temporary taxicab permits are not valid before 48 hours prior to the official opening day of the International Home Furnishings Market, as published by the International Home Furnishings Market Authority. Temporary taxicab permits expire 48 hours after the final day of said market. A temporary taxicab permit is only valid for one (1) market.

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(Supp. No. 4)

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-103. Temporary taxicab permit; transfer and revocation.

Temporary taxicab permits are not transferable and must be affixed to the vehicles for which they were specifically issued. In the event a permit is not used or is lost, stolen, defaced, destroyed or revoked, the vehicle for which it was issued shall not be operated as a taxicab and another permit will not be issued for that vehicle and no refund will be given. A temporary taxicab permit may be revoked by the taxicab inspector for any violation of this chapter, without notice. There is no hearing or appeal for a revoked temporary taxicab permit.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-104. Temporary taxicab regulations.

(a) In addition to all other rules of this chapter, a temporary taxicab permit holder shall comply by the following:

- (1) Locations of receiving and discharging passengers will be set by the taxicab inspector and the director of transportation.
- (2) Rules of order at all taxicab stands and throughout the downtown area, as set by the taxicab inspector, shall be observed.
- (3) Drivers are to be familiar with the City of High Point, local airports, major landmarks, how to read a map, and the English language.
- (4) Local trips may not be refused, except a trip of less than two (2) city blocks.
- (5) Taxicabs are not to be left unattended in taxicab stands.

(Ord. No. 6159/04-56, § 2, 8-5-04)

Sec. 11-2-105. Temporary taxicab permit holders; method of determining fare.

Notwithstanding the provisions of section 11-2-57, a temporary taxicab permit holder shall determine the fare to be charged as directed by the taxicab inspector. This method may be by the requirement of a properly calibrated taximeter set to city rates, by a rate card provided by the taxicab inspector, or any other method determined by the taxicab inspector.

(Ord. No. 6159/04-56, § 2, 8-5-04)

CHAPTER 6 *Massage Establishments*

Commented [LAM165]: Contained general provision criminalizing chapter. Decriminalized because this chapter was adopted under G.S. 160A-194.

Sec. 11-6-1. Purpose; exemptions.

To protect the public health, safety, welfare and morals, the following privilege license provisions and regulations are ordained for the privilege of carrying on the business, trade or profession of massagist and for the operation or carrying on of businesses, trades, or professions commonly known as massage parlors, health salons, physical culture studios, or similar establishments wherein massage or physical manipulation 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, nor to an office or clinic operated and regularly used by a duly qualified and licensed medical practitioner, osteopath, chiropractor, physical therapist, or registered massage therapist in connection with the practice of those professions.

(Ord. No. 92-84, § 1, 8-20-92)

Sec. 11-6-2. Definitions.

Unless the context clearly indicates otherwise, the following words and phrases shall have the following meanings:

- (1) *Massage* means the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.
- (2) *Massage business* means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios and massage studios.
- (3) *Business or profession of massage* includes the massage or treatment of any person for a fee or in expectation of a gratuity from the person massaged.
- (4) *Massagist* means any person engaged in the business or profession of massage.
- (5) *Registered massage therapist* means a person who holds either (a) a diploma from a school approved by the American Massage Therapy Association Commission on Massage Training Accreditation/Approval (COMTAA); or (b) a diploma in massage therapy from an institution approved or licensed by the North Carolina Community College System; or (c) a current certification from the National Certification Examination for Therapeutic Massage and Bodywork.

(Ord. No. 95-20, § 1, 1-16-95)

Sec. 11-6-3. Licensing of massage business operators.

- (a) No person, partnership, corporation or association shall operate a massage business as herein unless that person, partnership, corporation or association shall have first applied for and received the privilege license provided by this section.
- (b) Every application for the privilege license prescribed herein shall be upon a form approved by the city manager and shall be filed with the city clerk. Every such application shall be made under oath and shall contain the following information:
 - (1) If the applicant is a person, the name and residence address of the 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) The address of the premises where the massage business shall be located.
 - (3) A complete statement of all convictions of any persons whose name is required to be given in subparagraph (b)(1), for any felony, or prostitution or any violation of any law relative to prostitution.
 - (4) 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 subparagraph (b)(1) above.

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- (5) A complete statement of any conviction of any person whose name is required to be given in subparagraph (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) The name and address of any massage business or other establishment owned or operated by any person whose name is required to be given in subparagraph (b)(1) above, wherein the business or profession of massage is carried on.
 - (7) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.
- (c) The city clerk shall transmit a copy of the application to the police department for an investigative report; to the inspections department to determine compliance with all zoning and building regulations and ordinances; and to the fire department to determine compliance with any law relating to fire protection. The police and fire departments and the inspections department shall, within a reasonable time, not to exceed 45 days, report the results of their examinations to the city clerk.
- (d) An application in proper form, accompanied by all reports required by this section, shall be submitted to the city council, which shall approve such application if the city council determines that:
- (1) The application contains no misstatement of fact.
 - (2) The applicant, or any person having any legal or beneficial ownership interest in the applicant, has not been convicted of any crime involving sexual misconduct, including but not limited to G.S. 14-177 through G.S. 14-202.1, Article 26, (Offenses Against Public Morality and Decency,) and G.S. 14-203 through 14-208, Article 27 (Prostitution), or section 11-6-12, or of any federal statute relative to prostitution, or of any violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage.
 - (3) The applicant conforms to all requirements of applicable zoning, building, and fire prevention codes.
 - (4) The applicant or any person having a legal or beneficial ownership interest in the applicant has not, for the three (3) year period preceding the application, had a previously issued license for engaging in the business or profession of massage, revoked.
- (e) Upon approval of the application by the city council, and upon receipt of a license fee as fixed from time to time by the city council, the city collector shall issue a privilege license to applicant.
- (f) A license issued pursuant to this section shall be revoked by action of the city council if the city council determines that:
- (1) The licensee has violated any provisions of this section.
 - (2) The licensee, or any agent of the licensee, employs or permits to be on the premises of the applicant's massage business, any person practicing the business or profession of massage who has not been issued the privilege license required by 11-6-4 hereof, or whose license under the same subsection has been revoked.
 - (3) The licensee, or the legal or beneficial owner of an interest in the licensee is convicted of any crime involving sexual misconduct, including but not limited to G.S. 14-177 through G.S. 14-202.1, Article 26 (Offenses Against Public Morality and Decency), and G.S. 14-203 through G.S. 14-208, Article 27, (Prostitution).
 - (4) Any employee of the licensee is convicted of any felony in connection with his or her employment, or is convicted of any crime involving sexual misconduct, including, but not limited to G.S. 14-177 through G.S. 14-202.1, Article 26 (Offenses Against Public Morality and Decency), and G.S. 14-203 through G.S. 14-208, Article 27 (Prostitution), or of section 11-6-12.

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- (5) The licensee violates any zoning, building, or fire prevention ordinance.
- (g) A license issued pursuant to this section is void if the licensee moves or ceases operating a massage parlor at the location required to be stated in the application for license pursuant to the subsection (b)(2).
- (Code 1958, Sec. 15-41)

Sec. 11-6-4. Licensing of massagists.

- (a) No person shall engage in the business or profession of massage unless that person shall have first applied for and received the privilege license provided by this section.
- (b) The application for the license required by this section shall be upon a form approved by the city manager and shall be filed with the city clerk. The 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 (2) 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 misdemeanor or violation of a local ordinance.
 - (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.
 - (5) The date and place of applicant's birth, the name of applicant's parents, and the residence address or addresses of the applicant for the five (5) years immediately preceding the date of application.
- (c) The applicant shall submit, as part of the application required in subsection (b) hereof, the following:
- (1) Fingerprints of the applicant taken by the police department.
 - (2) Two (2) recent photographs of the applicant's head and shoulders, of a size and quality prescribed by the city manager.
 - (3) A medical certificate signed by a physician, licensed to practice in North Carolina; within seven (7) days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free of communicable disease. The additional information required by this subsection shall be provided at the applicant's expense.
- (d) The city 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 city clerk.
- (e) An application in proper form shall be submitted to the city council together with all reports required by this subsection. The city council shall approve such application if the council determines:
- (1) That the applicant is at least 18 years of age.
 - (2) The application contains no misstatement of fact.
 - (3) The applicant has not been convicted of any crime involving sexual misconduct, including, but not limited to G.S. 14-177 through G.S. 14-202.1, Article 26 (Offenses Against Public Morality and Decency), and G.S. 14-203 through 14-208, Article 27 (Prostitution), or of section 11-6-12 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.

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- (4) The applicant has not, for the three (3) year period preceding the application, has 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.
 - (6) The applicant has not been previously convicted of any violation of any provision of this section.
 - (f) Upon approval of the application by the city council, and upon receipt of a license fee as fixed from time to time by the city council, the city collector shall issue a privilege license to the applicant.
 - (g) The city council shall have authority to direct that any person licensed under this section submit to a medical examination by a licensed physician approved by the city council. This authority shall be exercised only when the council 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 the license as provided in subsection (h) of this section. Notwithstanding the provisions of this section, every person licensed under this section shall file and continue to file with the city clerk a new medical certificate with application for renewal of the license prescribed by this section. Failure to file such updated certificates shall be grounds for revocation of such license as provided in subsection (h) of this section.
 - (h) A license issued pursuant to this section shall be revoked by action of the city council if the city council determines:
 - (1) The licensee has violated any provision of this section.
 - (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 city council pursuant to subsection (g) of this section, or has failed to file any medical certificate required by said subsection (g).
 - (4) The licensee has been convicted of a felony, or any crime involving sexual misconduct, including, but not limited to G.S. 14-177 through G.S. 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 section 11-6-12, or under any federal statute relating to prostitution, or for violation of any law or ordinance of any governmental unit related to the business or profession of massage.

(Code 1968, Sec. 15-41)

Sec. 11-6-5. Employer to use only licensed employees.

No person, corporation, partnership, or association licensed under section 11-6-3 hereof, shall allow or permit any person to massage or treat any person upon the premises operated by the licensee unless the person giving the massage or treatment has complied with all requirements of licensing under section 11-6-4, including periodic medical examinations by a licensed physician. Violation of this section shall be grounds for revocation of the license issued to such violator pursuant to this section.

(Code 1968, Sec. 15-41)

Sec. 11-6-6. Posting of license.

- (a) Every massagist shall post the license required by section 11-6-4 in his work area.
- (b) Every person, corporation, partnership, or association licensed under section 11-6-3 hereof, shall display the license in a prominent place.

Sec. 11-6-7. Notice and hearing.

Before the city council revokes a license issued pursuant to this chapter, or if the city council determines reasonable grounds exist to deny an application for a license pursuant to this chapter, the city council shall cause a written notice to be sent by certified mail to the licensee affected or applicant affected, at the address stated in the license or application. The notice shall advise the affected party of a right to appear before the city council, with or without legal counsel, at a stated time and place, for the purpose of presenting any evidence relevant to such revocation or denial, and for the purpose of hearing all evidence submitted and examining or cross-examining any person providing such evidence.

(Code 1968, Sec. 15-41)

Sec. 11-6-8. Hours of operation.

- (a) No person licensed as a massagist under section 11-6-4 shall massage or treat any person, or engage in the business or profession of massage, before 8:00 a.m. or after 12:00 p.m., prevailing time.
- (b) No person, corporation, partnership, or association licensed under section 11-6-3, shall admit customers or prospective customers, or remain open for business, or allow, permit or condone any massage or treatment of any person upon the premises before 8:00 a.m. or after 12:00 p.m., 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 p.m., prevailing time.

(Code 1968, Sec. 15-41)

Sec. 11-6-9. Patronage of massage businesses by minors and employment of minors.

- (a) No person licensed as a masseur or masseuse under section 11-6-4, 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 section.
- (b) No person, corporation, partnership or association licensed under section 11-6-3 hereof, 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 section shall be grounds for revocation of any license issued to such violator pursuant to this section.
- (c) No person, corporation, partnership or association licensed pursuant to section 11-6-3 shall employ any person under the age of 18 years in the operation of a massage business.

Sec. 11-6-10. Privilege license annual.

The licenses required under this chapter are annual privilege licenses. Such licenses shall be due and payable in the same manner as prescribed for other privilege licenses issued by the city pursuant to the license and privilege tax ordinance of the city.

(Code 1958, § 15-41)

Sec. 11-6-11. Penalties.

Any person convicted of violating any provisions of this ~~chapter~~section shall be ~~punished~~subject to any of the civil penalties and remedies provided for in Section 1-1-4 of this Code ~~by fine, or imprisoned as provided by G.S. 14-4.~~

(Code 1958, § 15-41)

Commented [LAM166]: Decriminalized and changed to civil enforcement because this chapter was adopted under G.S. 160A-194.

Sec. 11-6-12. Severability.

If any subsection, sentence, clause, phrase or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(Code 1958, § 15-41)

Sec. 11-6-13. Massage of private parts for hire prohibited.

It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire. "Massage" means the manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device. "Private parts" means the penis, scrotum, mons veneris, vulva or vaginal area. The provisions of this section shall not apply to licensed medical practitioners, osteopaths or chiropractors, or persons operating at their direction, in connection with the practice of medicine, chiropractic, or osteopathy.

(Code 1958, § 15-42)

Sec. 11-6-14. Massage of persons of opposite sex restricted.

~~It shall be unlawful for any person holding a license under this chapter to massage a person of the opposite sex except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of massages, not to exceed 10. The date and hour of each massage given and the name of the operator shall be entered on such order by the establishment where the massages are given and shall be subject to inspection by police officers at any reasonable time.~~

~~(Code 1958, § 15-43; Ord. No. 92-84, § 1, 8-20-92)~~

CHAPTER 7 Sexually Oriented Businesses

Commented [LAM167]: This chapter contained a section which criminalized the entire chapter. PS decriminalized because this chapter was adopted under either G.S. 160A-194 or 160D-902 (or both), so it can't be criminalized.

Sec. 11-7-1. Definitions.

Adult arcade (also known as "peep show") means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe "specified sexual activities" or "specified anatomical areas."

Adult bookstore or adult video store means a commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one (1) or more of the following:

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- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or
 - (2) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

Adult cabaret means a nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes:

- (1) Persons who appear nude or semi-nude; or
- (2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe "specified sexual activities" or "specified anatomical areas."

Adult motel means a hotel, motel, or similar commercial establishment that:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe "specified sexual activities" or "specified anatomical areas" as one of its principal business purposes; or
- (2) Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe "specified sexual activities" or "specified anatomical areas."

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits, or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict "specified anatomical areas" or "specified sexual activities."

Applicant means the person who will operate the sexually oriented business, and shall include each of the following persons associated with that business:

- (1) The owner of a sole proprietorship;
- (2) Each member of a firm, association, or general partnership;
- (3) Each general partner in a limited partnership;
- (4) Each officer, director, and owner of more than 10 percent of the stock of a corporation;
- (5) The manager of an establishment operated by a corporation;
- (6) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership.

Chief of police means the Chief of Police of the City of High Point or the designated agent of the chief of police.

City clerk means the High Point City Clerk.

Employ, employee, and employment describe and pertain to any person who performs any service on the premises of a sexually oriented business on a fulltime, parttime, or contract basis, whether or not the person is

denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Escort means a person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency means a person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration.

Establishment means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business; or
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
- (3) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

Licensee means person(s) in whose name a license to operate a sexually oriented business has been issued.

Nude model studio means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. "Nude model studio" shall not include a proprietary school licensed by the State of North Carolina or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- (1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
- (2) Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
- (3) Where no more than one (1) nude or semi-nude model is on the premises at any one (1) time.

Operates or causes to be operated means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

Nudity or a state of nudity means:

- (1) The appearance of a human anus, male genitals, or female genitals; or
- (2) A state of dress which fails to opaquely cover a human anus, male genitals, or female genitals.

Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual encounter center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude.

Sexually oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or any combination of the foregoing.

Specified anatomical areas means human genitals in a state of sexual arousal.

Specified sexual activities means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) Persons other than those named as applicants for a license becoming associated with the business, as provided in the definition of applicant; except that a mere substitution of a person as manager of an establishment shall only require filing with the city clerk as provided in section 11-7-6(c);
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-2. Classification.

Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios;
- (9) Sexual encounter centers.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-3. License required.

- (a) It is unlawful for any person to operate a sexually oriented business without a valid sexually oriented business license issued by the city clerk pursuant to this chapter.
- (b) An application for a license must be made on a form prescribed by the chief of police. An application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.
 - (1) The applicant and the applicant's spouse shall provide to the chief of police, fingerprints and/or any other necessary identification information which may be required by the chief of police.
 - (2) The chief of police shall check the state repository for criminal history to determine if an applicant and/or an applicant's spouse has been convicted of a crime involving any offense described in Articles 7A, 26, 26A, 27, 37, or 39 of Chapter 14 of the North Carolina General Statutes; or, any similar offenses to those described herein under the criminal or penal code of North Carolina, other states, High Point, other cities, other countries, or facilitation, attempt, conspiracy or solicitation to commit any of the foregoing offenses for which:
 - a. Less than two (2) years have lapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - b. Less than five (5) years have lapsed since the date of conviction;
 - c. Less than five (5) years have lapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.
- (c) The application may request and the applicant shall provide such information as to enable the chief of police and the city clerk to determine whether each applicant meets the qualifications established in this chapter.
- (d) Each applicant must be qualified under section 11-7-4 and each applicant shall be considered a licensee if a license is granted.

(Ord. No. 91-56, § 1, 9-19-91; Ord. No. 94-24, § 1, 5-5-94)

Sec. 11-7-4. Issuance of license.

- (a) Within 30 days after receipt of a completed application, the city clerk will approve or deny the issuance of a license to an applicant for a sexually oriented business license. The city clerk will approve the issuance of a license to an applicant unless the chief of police finds one (1) or more of the following to be true:
 - (1) An applicant is under 18 years of age.
 - (2) The application and investigation fee or the license fee required by this chapter have not been paid.
 - (3) An applicant or an applicant's spouse is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business.
 - (4) An applicant has failed to provide information required in order to determine the qualifications of the applicant under this chapter for issuance of the license, or has falsely answered a question or request for information on the application form.

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- (5) An applicant or the proposed establishment is in violation of or is not in compliance with this chapter or other provisions of the High Point City Code.
- (6) An applicant or an applicant's spouse has been convicted of a violation of a provision of this chapter, other than the offense of operating a sexually oriented business without a license, within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
- (7) An applicant or an applicant's spouse has been convicted of a crime involving:
- a. Any offense described in Articles 7A, 26, 26A, 27, 37, or 39 of Chapter 14 of the North Carolina General Statutes; or any similar offenses to those described above under the criminal or penal code of North Carolina, other states, High Point, other cities, or other countries; or facilitation, attempt, conspiracy, or solicitation to commit any of the foregoing offenses;
for which:
 - (i) less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - (ii) less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - (iii) less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.
 - b. Reserved.
- (b) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.
- (c) An applicant who has been convicted or whose spouse has been convicted of an offense listed above may qualify for a sexually oriented business license only when the time period required by this section has lapsed.
- (d) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the classification of sexually oriented business for which it is granted, the expiration date, and the address of the sexually oriented business. Licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-5. Appeal.

An applicant whose application is denied, suspended, or revoked by the city clerk may appeal such action in writing within 30 days to the city council, which shall decide either to uphold the action or to issue the license no later than the second regular city council meeting after receipt of the appeal. The applicant or licensee shall have the right to present evidence before the city council. The decision to uphold the action of the city clerk or issue the license shall be based solely on the criteria established herein for the action by the city clerk. A suspension or revocation shall be stayed during the pendency of an appeal to the city council.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-6. Fees.

- (a) Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a \$500.00 non-refundable application and investigation fee.
- (b) In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the city clerk an annual non-refundable privilege license fee of \$500.00 upon license issuance or renewal.
- (c) A substitution of a manager of the business which occurs during the license year shall be filed with the city clerk within 30 days of its occurrence, and a \$100.00 investigation fee paid.
- (d) All license applications and fees shall be submitted to the city clerk.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-7. Inspection.

- (a) A business license applicant or licensee shall permit representatives of the police department or any other city, county, state, or federal department, division, or agency that enforces codes, regulations, or statutes relating to human health, safety or welfare, or structural safety to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
- (b) A person who operates a sexually oriented business or his agent or employee commits an offense if such person refuses to permit a lawful inspection of the premises by persons designated above.
- (c) The provisions of this section do not apply to areas of an adult motel which are currently being rented by the customer for use as a permanent or temporary habitation.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-8. Expiration of license.

All licenses shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in section 11-7-3. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-9. Suspension.

The city clerk is authorized to, and will, suspend a sexually oriented business license for a period not to exceed 30 days if the chief of police determines that a business licensee has:

- (1) Violated or is not in compliance with this chapter or with any other requirements of the High Point City Code, including those relating to buildings, electricity, plumbing, fire safety, and mechanical equipment; or
- (2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter; or
- (3) Permitted illegal gambling by any person on the sexually oriented business premises; or

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- (4) Demonstrated an inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-10. Revocation.

- (a) The city clerk is authorized to, and will, revoke a license if a cause for suspension in section 11-7-9 occurs and the license has been suspended within the preceding 12 months.
- (b) The city clerk is authorized to, and will, revoke a sexually oriented business license if the chief of police determines that a business licensee:
 - (1) Gave false or misleading information in the material submitted to the City during the application process; or
 - (2) Has allowed the possession, use, or sale of controlled substances on the premises; or
 - (3) Has allowed prostitution on the premises; or
 - (4) Has operated or worked in the sexually oriented business during a period of time when the licensee's license was suspended; or
 - (5) Has been convicted of an offense named in section 11-7-4(a) for which the time period required in section 11-7-4(b) has not lapsed; or
 - (6) On two (2) or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime named in section 11-7-4 for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed; or
 - (7) Has allowed any act of sexual intercourse, masturbation, oral copulation, or sodomy to occur in or on the licensed premises; or
 - (8) Is delinquent in payment to the city of ad valorem taxes, sales taxes, or the annual license fee, or any other fee or tax related to the sexually oriented business or other business of the licensee.
- (c) The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- (d) Subsection (b)(7) of this section does not apply to adult motels as a ground for revoking the license unless the business licensee or employee allowed the act of sexual intercourse, masturbation, oral copulation, sodomy, or sexual contact to occur in a public place or within public view.
- (e) When the city clerk revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business for one (1) year from the date revocation became effective. If, subsequent to revocation, the city clerk finds that the basis for the revocation has been corrected or abated, the licensee may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under subsection 11-7-4(a) an applicant may not be granted another license until the appropriate number of years required under that subsection have elapsed.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-11. Denial.

If the city denies the issuance of a license, or suspends or revokes a license, or denies an appeal, the city will send to the applicant, or licensee, by certified mail, return receipt requested written notice of the action.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-12. Transfer of license.

Unless a new application for a license is made, a licensee shall not transfer a license to another, nor shall a business licensee operate a different classification of a sexually oriented business than that designated in the application, or transfer ownership or control to another person(s), or operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. No sexually oriented business shall be operated under any name or conducted under any designation or classification not specified in the license for that business.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-13. Hours of operation.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one 1:00 a.m. and 6:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 10:00 a.m. on Sundays, except to the extent allowed by North Carolina law and regulations pertaining to the sale of alcoholic beverages by the business if the sexually oriented business has a state ABC permit.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-14. Additional regulations for escort agencies.

A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-15. Additional regulations for adult theaters, adult cabarets, adult motion picture theaters.

- (a) A person commits an offense if the person appears in a state of nudity in an adult cabaret, adult theater, or adult motion picture theater, or adult arcade.
- (b) A licensee or employee commits an offense if the licensee or employee allows a person to appear in a state of nudity in an adult cabaret, adult theater, or adult motion picture theater, or adult arcade.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-16. Additional regulations for adult motels.

- (a) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than 10 hours creates a rebuttal presumption that the establishment is an adult motel as that term is defined in this chapter.
- (b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, such person rents or subrents a sleeping room to another and, within 10 hours from the time the room is rented, such person rents or subrents the same sleeping room again.

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- (c) For purposes of subsection (b) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-17. Additional regulations for all sexually oriented businesses.

A person commits an offense if the person allows another person under the age of 18 years to enter or remain on or in the enclosed portion of a sexually oriented business; or for a person under the age of 18 years to enter or remain on or in the enclosed portion of a sexually oriented business.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-18. Regulations pertaining to sexually oriented businesses with viewing or other rooms.

- (a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which either: exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, videocassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, or has a room or booth (excluding restrooms) of less than 150 square feet to which patrons are admitted for any reason, shall comply with the following requirements:
- (1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises. The chief of police may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
 - (2) The application shall be sworn to be true and correct by the applicant(s).
 - (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the chief of police or his designee.
 - (4) It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises. It is the duty of the owners and operator of the premises and the employees who are present to ensure that no more than one (1) person occupies a room or booth at anytime, and that all other entrances to rooms, booths, or viewing areas (and to the aisles, walkways and hallways leading to rooms, booths or viewing areas) are maintained free of any obstruction such as a door, curtain, panel, board, slat, ribbon, cord, rope, chain, or other device.
 - (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restroom. Restrooms may not contain video reproduction equipment. If the premises have two (2) or more manager's stations designated, then the interior of the premises shall

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be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

- (6) It shall be the duty of the owners and operator, and it shall also be the duty of all employees present in the premises to ensure that the line of sight and view area specified in subsection (a)(5) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a)(1) of this section.
- (7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1) footcandle as measured at the floor level.
- (8) It shall be the duty of the owners and operator and it shall also be the duty of all employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (9) No operator, owner, or employee shall allow openings of any kind to exist between rooms or booths.
- (10) No person shall make or attempt to make an opening of any kind between rooms or booths.
- (11) The operator or owner shall, during each business day, regularly inspect the walls between the rooms or booths to determine if any openings or holes exist.
- (12) The owner or operator shall cause all floor coverings in rooms, booths, and viewing areas to be non-porous, easily cleanable surfaces, with no rugs or carpeting.
- (13) The owner or operator shall cause all wall surfaces and seating surfaces in rooms, booths, and viewing areas to be constructed of, or permanently covered by, non-porous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

- (b) A person having a duty under subsections (a)(1) through (13) above commits an offense if the person fails to fulfill that duty.

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-19. ~~Criminal~~ Civil penalties and remedies.

Any person who violates any provision of this chapter shall be subject to any of the civil penalties and remedies provided for in Section 1-1-4 of this Code and G.S. 160A-175 ~~shall be guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of \$500.00, or imprisonment, or both.~~

(Ord. No. 91-56, § 1, 9-19-91)

Sec. 11-7-20. Civil injunction.

Any person who violates this chapter is subject to a civil suit for injunction ~~as well as prosecution for criminal violations~~ and liability for licensing sanctions such as suspension or revocation.

(Ord. No. 91-56, § 1, 9-19-91)

Commented [LAM168]: PS decriminalized and changed to civil enforcement because this chapter was adopted under either G.S. 160A-194 or 160D-902 (or both), so it can't be criminalized.

Sec. 11-7-21. Liability for the conduct of others.

A licensee of a sexually oriented business is jointly and individually liable for violations of and offenses under this chapter by the employees of the sexually oriented business, and for all civil ~~and criminal~~ sanctions or remedies for such violations and offenses, including but not limited to license suspension or revocation, prescribed herein.

(Ord. No. 91-56, § 1, 9-19-91)

Title 12 OFFENSES

CHAPTER 1 Specific Offenses¹⁸

Sec. 12-1-1. Circuses, carnivals, shows, etc.

It shall be unlawful for any person within the city limits to exhibit or show, for private profit, in a tent or tents or other temporary structures, any circus, carnival or other show of like kind or description, including sideshows, vaudeville shows, museums, menageries, and like amusements or exhibitions; or to operate merry-go-rounds and Ferris wheels for private profit.

(Code 1958, § 15-4)

Commented [LAM169]: Not criminalized per Brian Beasley's suggestion. Best handled with a civil penalty.

Sec. 12-1-2. Injuring property of city.

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

Commented [LAM170]: Not criminalized per Brian Beasley's suggestion. Covered under state law G.S. 14-160.

Sec. 12-1-3. Police animal protection.

It shall be unlawful for any person to willfully and maliciously taunt, torment, tease, beat, kick or strike, or attempt any of said acts toward any animal maintained by the High Point Police Department for use in the performance of the function or duties of the High Point Police Department.

~~Any person who violates any of the provisions of this section is guilty of a misdemeanor and shall be fined or imprisoned, or both, in the discretion of the court.~~

(Ord. No. 95-82, § 1, 9-21-95)

Commented [LAM171]: Decriminalized per Brian Beasley's suggestion. Covered under state law G.S. 14-163.1.

Sec. 12-1-4. Public consumption of beer, wine, ale or any alcoholic beverage.

- (a) It shall be unlawful for any person to consume any beer, wine, ale or any alcoholic beverages (as defined under Chapter 18B of the General Statutes of North Carolina,) in or on any public street, right-of-way, sidewalk, alley or other public place within the city or on any city-owned property which is located inside or outside the High Point corporate limits.
- (b) Subsection (a) shall not apply within a building on city-owned property or park, or at permitted sidewalk cafes, where appropriate ABC permits have been obtained as required by law for the consumption of beer, wine, ale or any alcoholic beverages for the period of time permitted thereunder.

~~(c) A violation of this section is punishable as a misdemeanor.~~

(Ord. No. 95-82, § 1, 9-21-95; Ord. No. 6609/09-09, 3-5-09; Ord. No. 6758/10-106, § 1, 8-16-10)

Commented [LAM172]: Brian Beasley suggests criminalizing.

¹⁸Editor's note(s)—Section 1 of Ord. No. 95-82, adopted Sep. 21, 1995, added § 12-1-3 and renumbered §§ 12-1-3—12-1-9 as §§ 12-1-4—12-1-10 herein. Subsequently, § 1 of Ord. No. 95-89, adopted Oct. 5, 1995, added § 12-1-5 and renumbered §§ 12-1-5—12-1-10 as §§ 12-1-6—12-1-11 as herein set out.

Sec. 12-1-5. Possession and discharge of firearms, weapons.

Commented [LAM173]: Brian Beasley suggests criminalizing.

- (a) Except as provided in subsection (b) below, it shall be unlawful for any person to possess a weapon, as defined in G.S. 14-269, in or upon any building, park or other property, or their appurtenant premises, which is owned or otherwise under the legal control of the City of High Point.
- (b) This prohibition shall not apply to the following persons:
 - (1) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;
 - (2) Civil officers of the United States while in the discharge of their official duties;
 - (3) Officers and soldiers of the militia and the national guard when called into actual service;
 - (4) Sworn law enforcement officers;
 - (5) City animal control officers;
 - (6) Private security officers under contract with the city, while in the actual performance of their required duties.
- (c) A conspicuous notice shall be posted upon property set forth in subsection (a) above stating: "Possession of weapons or carrying a concealed handgun is prohibited."
- (d) ~~Any person in violation of this section shall be guilty of a misdemeanor and upon conviction shall be fined \$500.00 or imprisoned for 30 days, or both.~~ A violation of this section is punishable as a misdemeanor.
- (e) The carrying of a concealed handgun in accordance with G.S. 14-415.11 is prohibited in any building owned, leased as lessee, operated, occupied, managed or controlled by the city, and in or upon the recreational facilities operated by the city and specifically identified herein. Notice of this prohibition shall be posted in a conspicuous location at each entryway available to the general public at all buildings and at the primary points of public access to all other covered locations. Violation of this prohibition shall be prescribed by the applicable North Carolina General Statutes.

Allen Jay Park, 1073 E. Springfield Road, athletic fields and appurtenant facilities during an organized athletic event.

Armstrong Park, 305 E. Parkway Avenue, athletic field and appurtenant facilities during an organized athletic event.

Brentwood Athletic Fields, 1300 Block of Brentwood Street, athletic fields and appurtenant facilities during an organized athletic event.

City Lake Park, 602 West Main Street, swimming pools and appurtenant facilities.

Deep River Park, 1525 Skeet Club Road, athletic fields and appurtenant facilities during an organized athletic event.

Burnett Park, 1051 Montlieu Avenue, athletic fields at all times.

Harvell Park, 1215 Lincoln Drive, athletic fields and appurtenant facilities during an organized athletic event.

Hedgecock Park, 300 West Parris Avenue, athletic fields and appurtenant facilities during an organized athletic event.

High Point Athletic Complex, 2920 School Park Road, athletic fields and appurtenant facilities during an organized athletic event.

Johnson Street Athletic Complex, 4515 Johnson Street, athletic fields and appurtenant facilities during an organized athletic event.

Macedonia Park, 306 Wise Avenue, athletic fields and appurtenant facilities during an organized athletic event.

Miracle League Field, 2917 School Park Road, athletic fields and appurtenant facilities during an organized athletic event.

Morehead Recreation Center Park (Leonard Street Fields), 101 Price Street, athletic fields and appurtenant facilities during an organized athletic event.

Oak Hollow Campground, 3415 Centennial Street, swimming pool and appurtenant facilities.

Oak Hollow Tennis Center, 3401 North Centennial Street, tennis courts and appurtenant facilities during an organized athletic event.

Oakview Recreation Center Park, 503 James Road, athletic fields and appurtenant facilities during an organized athletic event.

Washington Terrace Park, 101 Gordon Street, athletic fields during an organized athletic event, swimming pool and appurtenant facilities.

Washington Terrace Pool, 108 Murray Street, swimming pool and appurtenant facilities.

West End Park, 1701 Edgewood Drive, athletic fields and appurtenant facilities during an organized event.

- (f) For purposes of section (e), the term "recreational facilities" and the restrictions on lawful possession of weapons for those facilities listed above includes only the following:
- (1) An athletic field, including any appurtenant facilities such as restrooms, during an organized athletic event if the field had been scheduled for use with the municipality or county office responsible for operation of the park or recreational area.
 - (2) A swimming pool, including any appurtenant facilities used for dressing, storage of personal items, or other uses relating to the swimming pool.
 - (3) A facility used for athletic events, including, but not limited to, gymnasiums.
- (g) Nothing in this section shall prohibit a current holder of a concealed carry weapons (CCW) permit recognized by the State of North Carolina from storing a firearm within a locked motor vehicle in a manner consistent with state law.

(Ord. No. 95-89, § 1, 10-5-95; Ord. No. 6889/11-70, §§ 1, 2, 12-19-11; Ord. No. 7121/15-04, § 1, 2-2-15)

Sec. 12-1-6. Handicapped vehicle parking.

Parking shall be permitted for the physically handicapped as defined by state law in those areas designated for the physically handicapped by the use of a sign or device set forth in the *Manual on Uniform Traffic Control Devices* and clearly marked for the spaces provided. It shall be a civil violation to park or leave standing any vehicle in a space designated for physically handicapped persons when such vehicle does not display the distinguishing license plate or placard as provided in North Carolina General Statutes section 20-37.6 and where appropriate signs or symbols giving notice thereof are erected marking the designated parking spaces.

(Ord. No. 91-75, § 1, 11-21-91; Ord. No. 95-82, § 1, 9-21-95; Ord. No. 95-89, § 1, 10-5-95)

Commented [LAM174]: Not criminalized per Brian Beasley's suggestion. Covered under state law G.S. 20-37.6.

Sec. 12-1-7. Firearms or other weapons, display and discharge prohibited; exceptions.

- (a) It shall be unlawful for any person to fire, discharge or shoot within the city any gun, pistol, air gun, BB gun, pellet gun, bow and arrow, slingshot, or other similar contrivance of firearm, on or off his premises, except in legally established shooting galleries or ranges, in the discharge of duty by law enforcement officers, pursuant to lawful directions of law enforcement officers, or in lawful defense of person or property.
- (b) It shall be unlawful to brandish or display in a threatening manner any firearm or dangerous weapon on any street, sidewalk, alley, or other public property within the city except as necessary and consistent with those conditions that would allow lawful discharge of such firearms or weapons pursuant to the provisions of this section.
- (c) ~~{Reserved.}~~ A violation of this section is punishable as a misdemeanor.
- (Ord. No. 12-2-82; Ord. No. 87-122, §§ 1, 2, 11-19-87; Ord. No. 95-82, § 1, 9-21-95; Ord. No. 95-89, § 1, 10-5-95)

Commented [LAM175]: Brian Beasley suggests criminalizing.

Sec. 12-1-8. Smoking in theaters.

It shall be unlawful to smoke or to carry a lighted cigar, cigarette or pipe into any theater, moving picture show or any other auditorium. The provisions of this section shall apply to the dressing rooms or any part of the theater behind the curtain as well as in front of same, except in case of special rooms provided for that purpose and so designated.

(Code 1958, § 8-26; Ord. No. 95-82, § 1, 9-21-95; Ord. No. 95-89, § 1, 10-5-95)

Commented [LAM176]: Not criminalized per Brian Beasley's suggestion. Best handled with a civil penalty.

Sec. 12-1-9. Operation of motorcycles and minibikes.

- (a) It shall be unlawful for any person to ride a minibike or motorcycle on the following property in the city:
- (1) Any city-owned property, including parks, vacant lots, rights-of-way, but not including streets;
 - (2) Any vacant property (this includes any vacant lot, construction site, and any property with a structure not permanently occupied).
- (b) A violation of this section is punishable as a misdemeanor.
- (Code 1958, § 15-40; Ord. No. 95-82, § 1, 9-21-95; Ord. No. 95-89, § 1, 10-5-95)

Commented [LAM177]: Brian Beasley suggests criminalizing.

Sec. 12-1-10. Offenses against public peace and order.

- (a) Subject to the provisions of this section, it shall be unlawful for any person or persons to make, permit, continue or cause to be made or create any unreasonably loud, disturbing and unnecessary noise in the city, with the exception of construction work done pursuant to a federal, state, county, or city contract which requires work to be performed during certain hours. For the purposes of this section, the following definitions shall apply:
- (1) *Unreasonably loud.* Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace or good order.
 - (2) *Disturbing.* Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.
 - (3) *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

Commented [LAM178]: Brian Beasley suggests criminalizing.

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 conduct.

In determining whether a noise is unreasonably loud, disturbing and unnecessary, the following factors incident to such noise are to be considered: time of day; proximity to residential structures; whether the noise is recurrent, intermittent or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; the character and zoning of the area; whether the noise is related to the normal operation of a business or other labor activity; whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof. A continuing or non-resetting audible burglar or fire alarm shall not be considered a violation of this section, but may be a violation of the false alarm ordinance, city ordinance section 5-1-48.

- (b) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section but this enumeration shall not be deemed to be exclusive:
- (1) *Blowing horns.* The sounding of any horn, whistle or signal device on any automobile, motorcycle, bus or other vehicle or railroad train, 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) *Radios, stereos, etc.* The playing of any radio, television set, record player, stereo or other sound reproduction system, musical instrument or sound-producing or sound-amplifying device on the premises of any dwelling, hotel or motel room, in such manner or with such volume, particularly but not limited to the hours between 11:00 p.m. and 7:00 a.m., if the sound generated is audible at a distance of 30 feet or more from the dwelling's property line, or, in the case of a hotel or motel room, the unit's most outer boundary wall.
 - (2.1) *Sound-producing equipment in vehicles.* The playing of any radio, cassette player, compact disc, video tape or disc, or other similar device for reproducing sound located on or in any motor vehicle on a public street, highway, within any public vehicular area, or on the premises of a private residence, if the sound generated or noise vibration there from is audible or can be felt at a distance of 30 feet or more from the radio, cassette player, compact disc, video tape or disc, or other similar device that is producing the sound.
 - (3) *Pets.* 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) *Use of vehicles.* The use of any automobile, motorcycle, dirt bike, go-cart, recreational vehicle or any other vehicle so out of repair, so loaded or operated in such manner as to create loud or unnecessary grating, grinding, rattling, screeching of tires or other noise.
 - (5) *Blowing whistles.* The blowing of any steam whistle attached to any stationary boiler except as a warning of danger.
 - (6) *Exhaust discharge.* The discharge into the open of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
 - (7) *Compressed air devices.* The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.
 - (8) *Building operations.* The erection (including excavation), demolition, alteration or repair of any building in a residential district between the hours of 6:00 p.m. and 7:00 a.m. of any day or in any district other than a residential district between the hours of 10:00 p.m. and 7:00 a.m. of any day, except with a permit from the city manager or his designee.

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- (9) *Noises near schools, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, library, or court while the same is in session, or adjacent to any hospital, or any church during services, which unreasonably interferes with the operation or activities of such institution.
- (10) *Loading and unloading operations.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening or destruction of bales, boxes, crates and containers.
- (11) *Bells and gongs.* The sounding of any bell or gong which disturbs the quiet or repose of persons in the vicinity thereof.
- (12) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument for the purpose of attracting attention by creation of noise to any performance, show, sale, display or advertisement of merchandise.
- (13) *Blowers, engines.* The operation of any noise-creating blower, power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise emitting therefrom is sufficiently muffled and the engine is equipped with a muffler device sufficient to deaden such noise, so that the same shall not cause annoyance to the public nor unreasonably disturb the rest and quiet of persons on adjacent premises or within the vicinity thereof.
- (14) *Appliances and other mechanical devices.* The operation of any noise-producing appliance or other mechanical device which, due to operational deficiencies, malfunction or other type of disrepair, causes loud and excessive noises in such a manner as to unreasonably annoy the public or disturb the rest and quiet of persons on adjacent premises or within the vicinity thereof.
- (15) *Loudspeakers or amplifiers.*
- a. It is prohibited within or from any commercial establishment or private entertainment or recreational venue to allow any loudspeaker or other mechanically-amplified device to be played so that the sound there from may be heard at a distance of 30 feet or more from the facility's property line, between the hours of 2:00 a.m. and 7:00 a.m.
 - b. In the exercise of noncommercial free speech, loudspeakers or amplifiers may be used, subject to the following conditions:
 1. It shall be unlawful for any person to speak into a loudspeaker or amplifier within the corporate limits of the city, when such loudspeaker or amplifier is so adjusted that the voice of the speaker is amplified to the extent that it is audible at a distance in excess of 150 feet from the person speaking; provided that such use in city recreational facilities shall be regulated by the rules of the city parks and recreation commission.
 - [2. Reserved.]
- (c) Enforcement and repeated violations. Where there is a violation of any provision of this ~~section~~[article](#), the city, at its discretion, may take one (1) or more of the following enforcement actions:
- (1) A police officer may issue a citation as provided herein, subjecting the violator to a civil penalty of \$200.00. A second violation by the same person or business within one (1) year of the first violation shall subject such person or business to a penalty of \$400.00. All subsequent violations by the same person or business within one (1) year of the first violation shall subject such person or business to a civil penalty of \$500.00.
 - (2) Failure to pay a civil penalty imposed under this section within 10 days may subject the offender to an additional \$50.00 delinquency charge. Any unpaid penalty or delinquency charge may be recovered by the city in a civil action.

(3) The civil penalties imposed by this section and the proceeds therefrom as collected by payment, civil action or otherwise, shall belong to the city and shall be paid into the general fund of the city under such conditions as prescribed by the annual budget.

(4) ~~In the alternative, pursuant to North Carolina General Statutes, section 14-4, a violation of this section may be considered is also punishable as a misdemeanor. Such a misdemeanor is punishable by a fine of not more than \$500.00 or imprisonment designated for a Class 3 misdemeanor.~~

(d) Each separate day of a continued violation shall be a separate and distinct offense and shall give rise to a separate and distinct penalty.

(Ord. No. 84-63, §§ 1, 2, 8-16-84; Ord. No. 93-100, § 1, 10-21-93; Ord. No. 94-7, § 1, 2-17-94; Ord. No. 96-54, § 1, 8-15-96; Ord. No. 95-82, § 1, 9-21-95; Ord. No. 95-89, § 1, 10-5-95; Ord. No. 6155/04-52, § 1, 7-8-04; Ord. No. 7224/16-44, 7-18-16)

Sec. 12-1-11. Loitering for the purpose of engaging in drug-related activity.

(a) For the purpose of this section, "public place" means any area available to the public for common usage and access, including any street, sidewalk, bridge, alley or alleyway, plaza, park, playground, driveway, parking lot or transportation facility, or the doorways, entranceways, stairway, staircase, hall, roof, elevator, courtyard, passageway or common area to any building which fronts on any of those places or any motor vehicle in or on any of those places, or any property owned by the City of High Point.

(b) It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the intent to engage in a violation of any subdivision of the North Carolina Controlled Substance Act, N. C. General Statutes Chapter 90, Article 5. Such circumstances shall include the following when done for the purpose of violating the aforementioned state statutes:

- (1) Repeatedly beckoning to, stopping, or attempting to stop passers-by, or repeatedly attempting to engage passers-by in conversation; or
- (2) Repeatedly stopping or attempting to stop motor vehicles; or
- (3) Repeatedly interfering with the free passage of other persons; or
- (4) Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is engaging in an unlawful drug-related activity; or
- (5) Such person repeatedly passes to or receives from passers-by, whether on foot, in a vehicle or by courier, money or objects; or
- (6) Such person takes flight upon the approach or appearance of a law enforcement officer; or
- (7) Such person is at a location frequented by persons who unlawfully use, possess, or sell drugs.

(c) ~~Any violation of this section is punishable as a misdemeanor. All ordinances or parts of ordinances in conflict with this section are hereby repealed to the extent of such conflict.~~

(d) If any section, subsection, paragraph, sentence, clause, phrase or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

(Ord. No. 89-117, § 1, 10-5-89; Ord. No. 95-82, § 1, 9-21-95; Ord. No. 95-89, § 1, 10-5-95)

Commented [LAM179]: Brian Beasley suggests criminalizing.

Commented [TNE180]: PS recommends removing this sentence and replacing with the criminalization language. Not sure what this sentence even means.

Sec. 12-1-12. Removal of graffiti.

- (a) Graffiti means any inscription, word, figure, painting, or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property, by any aerosol paint container, broad tipped marker, stick on label, paint stick, etching equipment, brush or other device capable of scarring or leaving a visible mark on any natural or man-made surface, without the prior written consent of the property owner.
- (b) Graffiti will not be construed to prohibit temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with traditional children's activities, such as drawings, bases for kickball, hopscotch or similar activities, nor shall it be construed to prohibit temporary, easily removable chalk or other water soluble markings used in connection with any lawful business or public purpose or activity.
- (c) Any person who applies graffiti to any natural or man-made surface of any city-owned or private property without the permission of the owner or occupant shall be subject to prosecution in accordance with the statutes relating to willful and wanton injury to property, N.C.G.S. 14-127, N.C.G.S. 14-160 or any other applicable statutes.
- (d) Any person applying graffiti on public or private property shall have the duty to remove the graffiti within 24 hours after notice by the city or private property owner of the property involved. This notice may be given in any manner deemed appropriate by the city or private property owner. Such removal shall be done in a manner that effectively removes or obscures the graffiti. The costs of removal or obscuring shall be borne by the person applying the graffiti. Failure of any person to remove or obscure the graffiti or pay for such costs shall constitute a violation of this ordinance. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for the removal or obscuring and the costs thereof.
- (e) In cases where the person applying graffiti is not identified prior to the removal of the graffiti by the city or private property owner, the person applying graffiti will be liable for the costs of said removal when later identified. Such liability for costs shall not affect or delay the city's enforcement of the nuisance abatement provisions of Chapter 3. Failure to pay shall constitute a violation of this ordinance.

(Ord. No. 6573/08-58, § 1, 8-18-08; Ord. No. 6587/08-72, § 1, 11-3-08)

Commented [LAM181]: Not criminalized per Brian Beasley's suggestion. Covered under state law G.S. 14-160.

Sec. 12-1-13. Aggressive solicitation prohibited.

- (a) The council finds that:
 - (1) Aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder.
 - (2) Aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.
 - (3) The presence of individuals who solicit money from persons at or near banks, automated teller machines, public transportation facilities, and crosswalks is especially troublesome because of the enhanced fear of crime in a place that is confined, difficult to avoid, or where a person might find it necessary to wait.
 - (4) This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.
- (b) In this section:

Commented [LAM182]: Brian Beasley suggests criminalizing.

(1) *Aggressive manner* means:

- a. Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
- b. Following the person being solicited, if that conduct is:
 - (i) Intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - (ii) Intended to or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- c. Continuing to solicit a person within five (5) feet of the person being solicited after the person has made a negative response;
- d. Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;
- e. Using obscene or abusive language or gestures toward the person being solicited;
- f. Approaching the person being solicited in a manner that:
 - (i) Is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - (ii) Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

(2) *Automated teller machine* means a device, linked to a bank's account records, which is able to carry out banking transactions.

(3) *Automated teller facility* means the area comprised of one (1) or more automatic teller machines, and any adjacent space that is made available to banking customers.

(4) *Bank* includes a bank, savings bank, savings and loan association, credit union, trust company, or similar financial institution.

(5) *Bus* means a vehicle operated by a transit authority for public transportation.

(6) *Check cashing business* means a person in the business of cashing checks, drafts, or money orders for consideration.

(7) *Public area* means an outdoor area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transport facility, or shop.

(8) *Solicit* means to request, by the spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

(c) A person commits an offense if the person solicits:

- (1) In an aggressive manner in a public area;
- (2) In a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers;
- (3) Within 25 feet of:
 - a. An automated teller facility;

- b. The entrance or exit of a bank; or
 - c. The entrance or exit of a check cashing business; or
 - (4) At a marked crosswalk.
 - (5) On either side of the street on a block where a school attended by minors or a child-care facility has an entrance or exit;
 - (d) A culpable mental state is not required, and need not be proved, for an offense under subsection (c)(2), (3), or (4).
 - (e) This section is not intended to proscribe a demand for payment for services rendered or goods delivered.
 - (f) A violation of this section is punishable as a misdemeanor. ~~punishable by a fine of up to \$500.00.~~
- (Ord. No. 6596/08-81, 11-18-08)

Sec. 12-1-14. Urinating or defecating on any public place.

- (a) It is unlawful for any person to urinate or defecate on any public place, sidewalk, street, alley or right of way, or in any public building, except in toilet facilities, or upon private property in a location visible from any public place. "Public place" means property owned by the city, the state, a county or federal government, including leaseholds and easements.
 - (b) A violation of this section is punishable as a misdemeanor. ~~punishable by a fine of up to \$500.00.~~
- (Ord. No. 6609/09-09, 3-5-09)

Commented [LAM183]: Brian Beasley suggests criminalizing.

CHAPTER 2 Animals¹⁹

ARTICLE A General Provisions

Sec. 12-2-1. Running at large prohibited.

- (a) It shall be unlawful for any person owning or controlling any animal or fowl, including dogs, to allow the same to run at large in the city; and it shall be the duty of the police department to take up and deliver to the place designated by the director of police services or his designated agent, any such animal or fowl found running at large. Each person owning or controlling an animal or fowl (except dogs) shall keep the animal or fowl in a substantial pen, coop or enclosure at all times.
- (b) The phrase "at large" shall mean, in connection with this article, a dog that is not in an enclosure or otherwise confined, or is not under the control of the owner or other person by means of a leash, cord or chain.

(Code 1958, § 4-1)

Commented [LAM184]: Not criminalized per Brian Beasley's suggestion. Best handled with a civil penalty.

¹⁹State law reference(s)—Municipal authority to regulate animals, G.S. 160A-186.

Sec. 12-2-2. Requirements of pens and enclosures for chickens, pigeons, rabbits, etc.

- (a) The maintenance of any chicken house, chicken yard, pen or other enclosure ("enclosure") in which chickens, or other fowl, pigeons, rabbits or other small animals are kept in a manner as to produce obnoxious odors or which is or may become a breeding place for flies is hereby prohibited. This subsection shall not prohibit the keeping of such animals in sanitary conditions that remain in compliance with the provisions of this section.
- (b) It shall be unlawful for any person to keep enclosures for fowl and/or small animals under this section within 40 feet of any dwelling house or structure used as a dwelling house, unless the house or structure is occupied by the owner of the animal or fowl.
- (c) The keeping of chickens under this section shall be limited to hens and the keeping male chickens (roosters) shall be prohibited. A maximum of five (5) chickens may be kept per dwelling house and in no event shall the keeping of any animals under this section be allowed for any multifamily dwelling structures.
- (d) Any enclosure under this section must be located in the back yard of the dwelling house and must be of sufficient height and material as to prevent the animals from leaving the enclosure and prevent predators or rodents from entering the enclosure. It shall be the responsibility of the owner of the dwelling house keeping the chickens to ensure that the enclosure is maintained in a clean and sanitary manner. All enclosures under this section must be physically separate from the dwelling house.
- (e) No commercial sale of chickens or chicken products, except eggs, is allowed under this section. Eggs may only be sold by the owner of the chickens that produced them and only in places that are allowed under Chapter 9 of the High Point Code of Ordinances. The slaughtering of chickens on the premises is allowed under the conditions set forth below:
 - (1) Slaughter must be for personal consumption only and must be done on the property of the owner of the chickens being slaughtered.
 - (2) Slaughter shall not be visible from any public area, public right-of-way, or any adjacent property.
 - (3) Slaughter must be performed in a sanitary manner with proper disposal of all waste materials.
- (f) The prohibitions of this section shall not apply to any agricultural or rural zoning districts as described in the City of High Point's development ordinance.

(Ord. No. 7097/14-76, § 1, 9-15-14; Ord. No. 7185/16-05, § 1, 1-19-16)

Commented [TNE185]: Not criminalized per PS's suggestion. Best handled with a civil penalty.

Sec. 12-2-3. Keeping of hogs.

It shall be unlawful for any person to keep or maintain any pigs within the corporate limits of the city.

(Code 1958, § 4-5)

Commented [LAM186]: Not criminalized per Brian Beasley's suggestion. Best handled with a civil penalty.

Sec. 12-2-4. Keeping of certain animals prohibited.

It shall be unlawful for any person to keep any lions, tigers, elephants, bears, or other nondomesticated animals in any residential area within the corporate limits of the city. However, this shall not apply to animals in a municipal zoo.

(Code 1958, § 4-7.1)

Commented [LAM187]: Not criminalized per Brian Beasley's suggestion. Best handled with a civil penalty.

State law reference(s)—Keeping of wild animals, G.S. 160A-187.

Sec. 12-2-5. Violations; civil penalty.

- (a) Violation of any section of this chapter shall be deemed unlawful and shall result in a fixed civil penalty charge in the amount of \$50.00. When the owner or agent charged with a violation under this section, makes proper payment of the amount as charged, the obligation thereunto shall be discharged. If such charge has not been paid within 10 days, the violation shall be deemed to be delinquent and subject to the additional penalties as provided in this chapter.
- (b) The city tax collector may accept payments in full and final settlement of the claim or claims, right or rights of action which the city may have to enforce such penalties by civil action in the nature of the debt. A failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of debt, together with the cost of the action to be taxed by the court. However, in the event the offender desires to make payment after the civil action has been commenced but prior to trial disposition, a penalty of \$50.00 in addition to the one imposed for payment within 10 days shall apply in such cases. Acceptance of the additional penalty shall be deemed a full and final release of any and all claims or right of action arising out of contended violations.
- (c) A violation listed in this chapter ~~shall not constitute a misdemeanor or infraction punishable under North Carolina General Statutes 14-4, but instead~~ shall be subject to the civil penalties fixed by subsection (a) of this section and the civil remedies provided ~~in Section 1-1-4 of this Code and G.S. by North Carolina General Statutes, Section 160A-175.~~ Any properly designated city official is authorized to take legal action in the nature of a civil suit for the collection of a debt when the civil penalty, including the delinquent civil penalty, has not been paid.
- (d) The civil penalties imposed by this section and the proceeds therefrom, as collected by payment of civil action or otherwise, shall belong to the city and shall be paid into the general fund of the city under such conditions as prescribed by the annual budget.

(Ord. No. 93-102, § 1, 10-21-93)

Secs. 12-2-6—12-2-10. Reserved.

ARTICLE B Dogs

Sec. 12-2-11. "Dog" and "owner" defined.

- (a) The word "dog" whenever used in this article shall include all animals of the canine species, both male and female.
- (b) The word "owner" shall include any person who shall harbor or suffer or permit any dog to remain on any premises within the city under his charge or control.

(Code 1958, § 4-8)

Commented [LAM188]: With the new legislation (S.L. 2021-138), each section can't be criminalized unless the criminalization is explicitly stated. Since we are not adding the criminalization language in here, this language is no longer necessary.

Commented [TNE189]: Aligning this with Section 1-1-4 and cleaning up the statutory language.

Sec. 12-2-12. License—Required; register book to be kept.

Every person who owns or keeps any dog within the city shall register the same with the finance department on or before July 1 of each year and shall pay the finance department a license fee as provided for in the following sections.

The finance department shall keep a dog register book, in which shall be listed all licensed dogs, prescribed by name, breed, color and sex, and shall also enter therein the name and address of the owner as given and the number of the license tag.

Commented [TNE190]: Not criminalized per PS's suggestions because the intent of the current version of this chapter is to not criminalize any violations.

Sec. 12-2-13. Same—Fee; when payable; half year licenses and fees.

- (a) No license fee shall be charged for any dog, whether male or female, until the dog attains the age of four (4) months. The annual license fee to be paid shall be as fixed from time to time by the city council. The license fee shall be due and payable to the city collector on July 1 of each year and if not paid by August 1 of each year the fee shall be increased 50 percent.
- (b) When a dog is acquired after July 1 of any license year, the dog shall be registered and the license fee shall be due and payable on or before the fifteenth day after the date of acquiring the dog; provided, that the license fee shall be one-half of the yearly fee if the dog is acquired during the last half of any license year.

Commented [TNE191]: Not criminalized per PS's suggestions because the intent of the current version of this chapter is to not criminalize any violations.

Sec. 12-2-14. Tags required; city collector to furnish.

The city collector shall provide each and every year the number of tags as may be necessary, of a material, size and shape as shall be deemed expedient, having stamped thereon the year for which the tag is issued, a serial number and the letters "City of High Point Dog Tag," and it shall be the duty of the city collector to deliver one tag to the person so paying a license fee upon any dog without any extra charge; provided that if any tag is broken or lost, the tag shall be replaced with a new tag without cost after a receipt has been produced showing the original tag number, date fee was paid, and a full description of the dog. The new tag number will be placed on receipt and marked "no charge." It shall be the duty of the owner or keeper of each dog for which the tag is issued to cause the dog to wear the tag constantly. The tag shall not be issued unless the owner or person making applications therefor shall present to the city collector, a certificate or other evidence issued by a duly appointed rabies inspector, showing that the dog for which the metal tag is issued has been vaccinated by the administration of anti-rabies vaccine within a period of three (3) years prior to such application.

(Code 1958, § 4-11)

Commented [TNE192]: Not criminalized per PS's suggestions because the intent of the current version of this chapter is to not criminalize any violations.

Sec. 12-2-15. Dogs without tag deemed unlicensed; violations; civil penalty.

- (a) Every owner or keeper of a licensed dog shall keep and maintain a collar around the neck of the dog, with the tag securely attached thereto, and every dog found in the city without a tag shall be deemed an unlicensed dog and in violation of this section. The owner thereof shall be required to purchase a tag and pay the impounding fee if the dog is impounded or relinquish the dog to be disposed of.
- (b) Violation of this section shall be deemed unlawful and shall result in a fixed civil penalty charge in the amount of \$15.00. When the owner or keeper charged with a violation under this section, makes proper payment of the amount as charged, the obligation thereunto shall be discharged. If such charge has not been paid within 10 days, the violation shall be deemed to be delinquent and subject to the additional penalties as provided in this section.
- (c) The city tax collector may accept payments in full and final settlement of the claim or claims, right or rights of action which the city may have to enforce such penalties by civil action in the nature of the debt. A failure to

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(Supp. No. 4)

pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of debt, together with the cost of the action to be taxed by the court. However, in the event the offender desires to make payment after the civil action has been commenced but prior to trial disposition, a penalty of \$25.00 in addition to the one imposed for payment within 10 days shall apply in such cases. Acceptance of the additional penalty shall be deemed a full and final release of any and all claims or right of action arising out of contended violations.

- (d) A violation listed in this section ~~shall not constitute a misdemeanor or infraction punishable under North Carolina General Statutes [section] 14-4, but instead~~ shall be subject to the civil penalties fixed by subsection (b) of this section and the civil remedies provided in Section 1-1-4 of this Code and G.S. by North Carolina General Statutes, Section 160A-175. Any properly designated city official is authorized to take legal action in the nature of a civil suit for the collection of a debt when the civil penalty, including the delinquent civil penalty, has not been paid.
- (e) The civil penalties imposed by this section and the proceeds therefrom as collected by payment, civil action or otherwise, shall belong to the city and shall be paid into the general fund of the city under such conditions as prescribed by the annual budget.

(Code 1958, § 4-12; Ord. No. 93-101, § 1, 10-21-93)

Sec. 12-2-16. Impounding.

- (a) It shall be the duty of the animal control specialist to capture and impound in the county animal shelter each and every unlicensed dog or any dog found unlawfully at large in the city as provided in this chapter. The animal control specialist shall thereupon notify each owner of a dog so taken, if the name of the owner is ascertained.
- (b) It shall be lawful for the animal control specialist or police officers of the city to tranquilize or kill any dog at large within the city which cannot safely be taken up and impounded.

Sec. 12-2-17. Dangerous dogs.

- (a) *Definitions.*

- (1) *Dangerous dog* means:

- a. A dog that:
1. Without provocation has killed or inflicted severe injury on a person; or
 2. Is determined pursuant to this section to be potentially dangerous because the dog has engaged in one (1) or more of the behaviors listed in subdivision (2) of this subsection.
- b. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

- (2) *Potentially dangerous dog* means a dog determined pursuant to this section to have:

- a. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; or
- b. Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or
- c. Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack; or

Commented [LAM193]: With the new legislation (S.L. 2021-138), each section can't be criminalized unless the criminalization is explicitly stated. Since we are not adding the criminalization language in here, this language is no longer necessary.

Commented [TNE194]: Aligning this with Section 1-1-4 and cleaning up the statutory language.

Commented [TNE195]: Not criminalized per PS's suggestions because the intent of the current version of this chapter is to not criminalize any violations.

Commented [TNE196]: Not criminalized per PS's suggestions because the intent of the current version of this chapter is to not criminalize any violations.

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- d. Displayed a propensity or disposition to attack unprovoked by approaching or charging towards a person in a vicious or menacing fashion in an apparent attitude of attack, whether or not the dog is on the owner's property or under restraint.
- (3) *[Threatening behavior.]* For purposes of subsections (2)(c) and (d) hereof, the following examples of a dog's behavior, while not to be deemed exclusive, shall be considered in the determination as to whether the dog is potentially dangerous: Snarling, baring of teeth, snapping, growling; or straining or lunging against a leash, other restraint, or fence in an attempt to free itself.
- (4) *Owner* means any person or legal entity that has a possessory property right in a dog.
- (5) *Owner's real property* means any real property owned or leased by the owner of the dog, but does not include any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.
- (6) *Severe injury* means any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.
- (7) *Exceptions.* The provisions of this section do not apply to:
- a. A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;
 - b. A dog being used in a lawful hunt;
 - c. A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
 - d. A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort; was tormenting, abusing, or assaulting the dog; or was committing or attempting to commit a crime.
- (b) *General provisions.* It shall be unlawful for any person to own or in any way maintain or harbor any dangerous dog or potentially dangerous dog as defined in this article, except as provided in this section.
- (c) *Enforcement.* If an animal control officer or law enforcement officer has determined that a dog is dangerous or potentially dangerous, then the animal control officer or law enforcement officer shall notify the owner immediately in writing. The owner shall turn the animal over to the county animal shelter within 24 hours of such notification. Upon the failure of the owner to surrender said animal, an animal control officer or law enforcement officer shall have authority to apply for an appropriate court order to seize the dog and deliver it to the county animal shelter. After six (6) working days, the county animal shelter shall have the duty to dispose of the dog in one (1) of the following ways:
- (1) By the humane destruction of the dog; or
 - (2) By giving the dog to an individual or organization, subject to the protective and inspection conditions required by the Humane Society for the well-being of the dog and for the protection of the public, for the purpose of preserving and taking care of the dog. In this case, the animal control officer will notify the appropriate authorities in the jurisdiction where the individual or organization receiving the dog shall be located.
- (d) *Appeal.* Any person who owns a dog that has been declared dangerous or potentially dangerous by an animal control officer or law enforcement officer shall have the right to appeal this decision and request a hearing contesting that determination by submitting a written request to the city manager within five (5) working days of the determination that the dog is dangerous or potentially dangerous. Submission by the owner of a

request for a hearing shall stay the requirement that the dog be delivered to the animal control shelter while the appeal is pending before the hearing panel.

- (e) *Hearing procedures upon appeal.* The manager shall immediately notify the mayor, who shall name a hearing panel comprised of three (3) citizens to hear the appeal within 10 working days. The hearing panel shall conduct a hearing to determine if the animal control officer's or law enforcement officer's determination that the dog is dangerous or potentially dangerous is correct. If the dog is judged not to be dangerous or potentially dangerous, it shall be returned to the owner without charge. If the hearing panel determines the dog to be dangerous or potentially dangerous, then the dog shall be delivered to the county animal shelter, which shall keep the dog for 30 days and then dispose of the dog according to this section or return it to the owner upon notification by the city that a proper enclosure has been erected for the dog.
- (f) *Enclosures for dangerous or potentially dangerous dogs.* In the event that a dog has been determined to be dangerous or potentially dangerous, the owner may regain possession of the dog subject to the following conditions. The owner must erect, within 30 days of any final determination, a proper structure and display warning signs as defined within this section. This structure must be inspected and approved by the city building inspection department as meeting the following requirements and standards:
- (1) The structure must be a minimum size of 15 feet by 6 feet with a floor consisting of a concrete pad at least 4 inches thick. If more than one (1) dog is to be kept in the enclosure, the floor area must provide at least 45 square feet for each dog. The walls and roof of the structure must be constructed of welded chain link of a minimum thickness of 12 gauge supported by galvanized steel poles at least two and one-half (2½) inches in diameter. The vertical support poles must be sunk in concrete-filled holes at least 18 inches deep and at least 8 inches in diameter. The chain link fencing must be anchored to the concrete pad with galvanized steel anchors placed at intervals of no more than 12 inches along the perimeter of the pad. The entire structure must be freestanding and not be attached or anchored to any existing fence, building, or structure. The structure must provide self-contained shelter for the dog(s). The structure must be secured by a child-resistant lock.
 - (2) A warning sign at least 120 square inches must be visible from each exposure of the structure which is visible to any adjoining property. Each sign must have a graphic representation of a dog such that the dangerous or potentially dangerous dog can be communicated to those who cannot read, including young children.
 - (3) The owner of the dog shall be responsible for ensuring that the enclosure is maintained in such condition as to meet the requirements of this article. Failure to maintain or repair the enclosure shall constitute a misdemeanor by the owner.

Prior to the inspection of the enclosure by the building and inspection department, the owners shall pay the current fee for the inspection of an accessory building. The dog shall not be returned to the owner's property until such time as this shelter and warning signs have been approved. While the structure is being approved, the dog must be boarded at the county animal shelter at the owner's expense.

(Ord. No. 92-83, § 1, 8-20-92; Ord. No. 93-27 § 1, 3-4-93)

Sec. 12-2-18. Tethering of dogs prohibited.

It shall be unlawful for any person to restrain a dog using a chain, wire or other type of tethering device in a manner prohibited by this subsection.

- (a) No person shall tether, fasten, chain, tie, or restrain a dog, or cause such restraining of a dog, to a tree, fence, post, dog house, or other stationary object. During periods of tethering that are lawful under this subsection, any tethering device used shall be at least 10 feet in length and attached in such a manner as to prevent strangulation or other injury to the dog or entanglement with objects.

Commented [LAM197]: Brian Beasley suggests criminalizing. Criminalized in section 12-2-20.

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- (b) No person shall tether, fasten, chain, tie, or restrain a dog, or cause such restraining of a dog, to a cable trolley system that allows movement of the restraining device. During periods of tethering that are lawful under this subsection, the length of the cable along which the tethering device can move must be at least 10 feet, and the tethering device must be of such length that the dog is able to move 10 feet away from the cable perpendicularly and attached in such a manner as to prevent strangulation or other injury to the dog and entanglement with objects. During periods of lawful tethering under this subsection, tethers must be made of rope, twine, cord, or similar material with a swivel on one end or must be made of a chain that is at least 10 feet in length with swivels on both ends and which does not exceed 10 percent of the dog's body weight. All collars or harnesses used for the purpose of the lawful tethering of a dog must be made of nylon or leather.
- (c) No person shall tether a dog with a chain or wire or other device to, or cause such attachment to, any collar other than a buckle type collar or body harness.
- (d) No person shall tether with a chain or a wire or other device to, or cause such attachment to, a head harness, choke-type collar or pronged collar to a dog.
- (e) No person shall tether with a chain, wire, or other device to a dog where the weight of the tethering device and the collar combined exceeds 10 percent of the dog's body weight.
- (f) No person shall tether with a chain, wire, or other device, a dog in such a manner that does not allow the dog access to adequate food, water and shelter.
- (g) No person shall tether a sick, diseased, and/or injured dog, or puppy (a dog that is one (1) year of age or younger).
- (h) Notwithstanding the provisions of this subsection, a person may, subject to the following provisions, and subject to the requirement that any stationary tethering device used shall be at least 10 feet in length, and subject to the requirements for any cable trolley system used where the length of the cable along which the tethering device can move must be at least 10 feet, and the tethering device must be of such length that the dog is able to move 10 feet away from the cable perpendicularly, may:
- (1) Tether and restrain a dog while actively engaging in:
 - (i) Usage of the dog in shepherding or herding livestock; or
 - (ii) Use of the dog in the business of cultivating agricultural products, if the restraining is reasonably necessary for the safety of the dog; or
 - (iii) Use of the dog in lawful hunting activities if the restraint is reasonably necessary for the safety of the dog; or
 - (iv) Use of the dog at a dog training or performance events, including but not limited to, the field trials and obedience trials where tethering does not occur for a period exceeding seven (7) consecutive days; or
 - (v) Camping or other recreational activities where tethering is required by the camping or recreational area where the dog is located.
 - (2) Tether and restrain a dog during any lawful activity where a tethered dog is in visual range of its owner or keeper, and the owner or keeper is located outside with the dog. After taking possession of a dog that appears to be a stray dog and after having advised animal control authorities of the capture of the dog, tether and restrain the dog in accordance with the provisions of this subsection for a period not to exceed seven (7) days as the person having taken possession of the dog is seeking the identity of the dog.
 - (3) Tether while walking a dog with a handheld leash.

(Ord. No. 7163/15-46 , § 1, 8-17-15; Ord. No. 7390/18-19 , 3-5-18)

Sec. 12-2-19. Adequate shelter.

Owners of dogs shall provide food, shelter and medical attention to such dogs, including, but not limited to, the following:

- (a) Sufficient wholesome food that is nutritious for the species;
- (b) Fresh, potable drinking water;
- (c) Medical attention to relieve such animals from suffering;
- (d) Shade from the sun; and
- (e) Shelter to allow the dog to remain dry and protected from the elements. Such shelter shall be fully enclosed on three (3) sides, roofed and have a solid floor. The entrance to the shelter shall be adequately sized to allow the dog's entry and exit, and sturdy enough to block entry of wind and rain. The shelter shall be small enough to retain the dog's body heat and large enough to allow the dog to stand and turn comfortably. The enclosure shall be structurally sound and in good repair.

(Ord. No. 7390/18-19 , 3-5-18)

Sec. 12-2-20. Fees.

Any ~~owner that is found in~~ violation of the regulations described in sections 12-2-18 and 12-2-19 shall be subject to ~~the following fees~~ civil penalties in accordance with Section 1-1-4 of the Code and punishable as a misdemeanor. ⁺

~~(a) 1st offense: Subject to citation and a \$100.00 fee civil penalty (if the dog is not spayed or neutered, the fee civil penalty may be voided in lieu of the owner having the dog spayed or neutered by a veterinarian and providing to the animal control officer documented proof of such within 14 days).~~

~~2nd offense: Subject to citation and a \$250.00 fee civil penalty.~~

~~3rd and subsequent offenses: Subject to a class 3 misdemeanor and fine of up to \$500.00 punishable as a misdemeanor.~~

~~(b)~~ The procedures set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law and shall not prevent the city from proceeding in a criminal action against any person, firm or corporation violating the provisions of this chapter.

(Ord. No. 7390/18-19 , 3-5-18)

CHAPTER 3 Public Nuisances²⁰

²⁰Editor's note(s)—Ord. No. 6168/04-65, § 1, adopted Sept. 7, 2004, amended ch. 3 in its entirety to read as herein set out. Former ch. 3, §§ 12-3-1—12-3-7, pertained to trash and weeds, and derived from 1958 Code, §§ 10-16—10-20 and 10-22; Ord. No. 87-84, adopted Sept. 3, 1987; Ord. No. 94-65, § 1, adopted Aug. 18, 1994; and Ord. No. 97-17, § 1, adopted Mar. 20, 1997.

Commented [LAM198]: Brian Beasley suggests criminalizing. Criminalized in section 12-2-20

Sec. 12-3-1. Conditions constituting a public nuisance.

The existence of any of the following conditions on any land within the corporate limits, or one (1) mile thereof, is hereby declared to be dangerous and prejudicial to the public health or safety, and to constitute a public nuisance:

- (1) A place of dense growth of weeds, grass or other noxious vegetation exceeding 12 inches in height, provided this condition shall not apply to those lands certified, dedicated or designated by the city or other appropriate governmental agency as vegetative buffer, floodplain, stream buffer, open space or other natural or environmentally sensitive area established to protect the public or protect and preserve natural greenways, floodways, streams or water quality.
- (2) Any concentration of rubbish, trash, junk, mattresses, boxes, old clothes, rags or any other combustible material or objects of like kind 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 mosquitoes, rats, mice, snakes or vermin of any kind.
- (3) Any concentration 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.
- (4) The open storage of any furniture, appliances or metal products of any kind or nature which have jagged edges of metal, glass, or areas of potential confinement by children or other persons.
- (5) The open storage of building material, firewood or other similar materials not elevated a minimum of six (6) inches off the ground.
- (6) Any unused, abandoned or open water supply well which poses a potential hazard for water contamination or safety.
- (7) Any accumulation of fallen trees, dead trees, sections of tree trunks or tree limbs on a parcel of land, provided this condition shall not apply to accumulations of less than two (2) cubic yards or to natural accumulations on parcels of land or portions thereof that are predominately wooded.
- (8) Any unsecured building including but not limited to houses, apartments, nonresidential buildings and accessory buildings, which contribute to or are likely to contribute to blighted neighborhood conditions such as vagrancy, trash accumulation, alcohol or illegal drug use, trespassing, prostitution, or other criminal activities.
- (9) Any structure, the remains of a structure, or portion thereof that is in a damaged condition as the result of fire, wind, flood, or other disaster that remains in an un-repaired state for a period of 30 days from the date of the disaster and that has one (1) or more of the following conditions:
 - a. Glass, metal or other sharp objects in an accessible area;
 - b. Unstable structures or damaged trees which may fall or collapse;
 - c. Holes, excavations, surviving foundations or walls that may collapse or create heights in excess of three (3) feet in areas where they may be scaled;
 - d. Any substance that is hazardous or harmful to humans or pets; and
 - e. Any open or accessible utility line such as natural gas, water, sewer or electrical.
- (10) Any accumulation of debris from the demolition of any structure, including but not limited to partially demolished walls, foundations, basements, building materials and other rubbish after the cessation of all active demolition activity on the property.

Commented [LAM199]: Not criminalized per Brian Beasley's suggestion. Best handled with a civil penalty. There are criminal nuisances so it's probably best to keep these civil.

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- (11) Any swimming pool or its appurtenances which is dangerous or prejudicial to public health and safety, including but not limited to pools with stagnant water, debris, dead animals or structural deficiencies.
 - (12) Any discharge of pollutants or non-stormwater materials to the stormwater drainage system. Examples of illicit discharges include but are not limited to oil, anti-freeze, chemicals, animal waste, paints, and litter.
 - (13) Any connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
 - (14) Any graffiti, as defined in section 12-1-12.
 - (15) Any condition detrimental to the public health which violates the rules and regulations of the county health department or that injures or causes discomfort to the community at large, endangers life, generates disease or has a detrimental effect on the public health, safety and welfare.

(Ord. No. 6168/04-65, § 1, 9-7-04; Ord. No. 6541/08-26, 5-19-08; Ord. No. 6573/08-58, § 2, 8-18-08)

Sec. 12-3-2. Enforcement authority; right of entry.

- (a) It is the duty of the director of planning and development, or his designee, to enforce all of the provisions of this chapter, unless otherwise specified, and shall have such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the authority to make all inspections necessary to determine whether the provisions of this chapter are being met. The director, or his designee, shall be authorized to enter upon and within premises and buildings for the purpose of making examinations and investigations; provided that such entries shall be made at reasonable hours in such a manner as to cause the least possible inconvenience to persons in possession.
- (b) In the event of a stormwater violation, as defined in sections 12-3-1(12) and 12-3-1(13), the director of public services will enforce all provisions as described in the above section.

(Ord. No. 6168/04-65, § 1, 9-7-04; Ord. No. 6541/08-26, 5-19-08)

Sec. 12-3-3. Notice to abate; emergency abatement by the city.

- (a) If any person shall violate the provisions of section 12-3-1, it shall be the duty of the director of planning and development or his designated representative to give notice to the owner or to any person in possession of the subject property, as provided by section 12-3-4, directing that all unlawful conditions existing thereupon be abated within 10 days from the date of such notice; provided, that if, in the opinion of the director of planning and development or his designee, the unlawful condition is such that it is of imminent danger or peril to the public, then any authorized planning and development representative may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property as is provided in section 12-3-6.
- (b) In the event of a stormwater violation, as defined in sections 12-3-1(12) and 12-3-1(13), the director of public services will enforce all provisions as described in the above section.

(Ord. No. 6168/04-65, § 1, 9-7-04; Ord. No. 6541/08-26, 5-19-08)

Commented [TNE200]: Not criminalized per Brian Beasley's suggestion. Best handled with a civil penalty. There are criminal nuisances so it's probably best to keep these civil.

Sec. 12-3-4. Service of notice.

- (a) The owner of subject property, as shown on county tax records, shall be notified of violation of section 12-3-1 by personal delivery of said notice or by registered or certified mail, return receipt requested. If such notice is refused or is returned unclaimed, then said property shall be posted with notice. If the name of the owner cannot be ascertained, with reasonable diligence, then the notice shall be served on any person in possession of the subject property, or, if there is no person in possession of it, by posting the notice on the subject property. If any such property is owned by a corporation, the notice shall be served upon the registered agent, or, in the absence thereof, notice shall be served upon the corporation.
- (b) Any such notice may be served by any authorized representative of the planning and development department or by any police officer of the city.
- (c) Any insubstantial defect in the method of giving the notice required by section 12-3-4, or in the form thereof, shall not prevent the city, in any case where the work of abating an unlawful condition upon any property is undertaken by the city or its contractor, from collecting the cost thereof from the owner, nor shall it affect the validity of the lien on the property for such cost.

(Ord. No. 6168/04-65, § 1, 9-7-04)

Sec. 12-3-5. Chronic violators.

The city may notify a chronic violator of section 12-3-1 that, if the violator's property is found to be in violation of section 12-3-1, the city shall, without further notice in the calendar year in which the notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property in accordance with G.S. 160A-193. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave a notice of violation at least three (3) times under section 12-3-3.

(Ord. No. 6168/04-65, § 1, 9-7-04)

Sec. 12-3-6. Abatement by city where owner fails to abate.

- (a) Upon the failure of the owner or person in possession of any premises to abate any unlawful condition existing thereupon within the time prescribed by section 12-3-3, except for the removal of a swimming pool in violation of subsection 12-3-1(11), it shall be the duty of the director of public services or an authorized public services representative to cause the removal and abatement of such unlawful condition therefrom.
- (b) Upon the failure of the owner to remove or demolish a swimming pool or its appurtenances in violation of subsection 12-3-1(11), it shall be the duty of the director of public services or an authorized public services representative to cause the removal and abatement of such unlawful condition provided that an ordinance ordering the director to effectuate this action has been approved by city council.
- (c) Upon the completion of such removal and abatement, the director of public services or his designated representative shall deliver to the city collector a statement showing the actual cost of the abatement of the unlawful condition plus an additional fee to cover the cost of notice and cost of collection. The city collector shall thereupon mail to the owner of the subject property a bill covering the cost, if with reasonable diligence the name and address of such owner can be ascertained, and the amount of the bill shall become a lien upon the subject property, and if not paid with 30 days shall be collected as in the manner provided for the collection of delinquent taxes.

- (d) The expense of the action is also a lien on any other real property owned by the person in default within the city limits or within one (1) mile of the city limits, except for the person's primary residence. A lien established pursuant to this section is inferior to all prior liens and shall be collected as a money judgment. This section shall not apply if the person in default can show that the nuisance was created solely by the actions of another.
- (e) The director of public services, or his designee or agent, may enter upon the premises involved for the purpose of abating the nuisance found to exist under this chapter.

(Ord. No. 6168/04-65, § 1, 9-7-04)

Sec. 12-3-7. Appeals.

~~Within the 10-day period mentioned in section 12-3-3 hereof, the owner or tenant of the property where the nuisance exists may appeal the findings of the director of planning and development. An appeal stays the abatement of the nuisances by the director of public services or public services department until a final determination by the city manager. In the event no appeal is taken, the director of public services, or his designee or agent, may proceed to abate the nuisance in accordance with Section 1-1-4 of this Code.~~

(Ord. No. 6168/04-65, § 1, 9-7-04)

Commented [TNE201]: Cleaning this up to align with the new appeal language in Section 1-1-4.

Sec. 12-3-8. County health officer may exercise current authority.

It is the intention of this chapter that any authorized representative of the director of planning and development shall be primarily responsible for the enforcement of the provisions of this chapter but a county health officer shall, in any case where it deems advisable to act, have all the authority conferred by this chapter upon the director of planning and development or his designated representative and any notice served for the purpose of this officer by, or by authority of, the county health officer and any charge made by the county officer in accordance with the provisions of subsection 12-3-6(c), shall be as valid as if made by the director of planning and development.

(Ord. No. 6168/04-65, § 1, 9-7-04)

Sec. 12-3-9. Civil penalties.

An owner that fails to comply with an order to abate any unlawful condition described in section 12-3-1 shall be subject to a civil penalty ~~ies in accordance with Section 1-1-4 of this Code and G.S. 160A-175 y of \$100.00 for the first day following the expiration of an order to abate. In each instance, a penalty of \$25.00 per day shall be imposed for each subsequent day that the nuisance remains unabated. If a person fails to pay the civil penalty within 10 days after being notified of the amount due, the city may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.~~

(Ord. No. 6168/04-65, § 1, 9-7-04)

Commented [TNE202]: Cleaning this up to align with the new appeal language in Section 1-1-4.

Sec. 12-3-10. Procedures in addition to other remedies.

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 city from proceeding in a criminal action against any person, firm or corporation violating the provisions of this chapter.~~

(Ord. No. 6168/04-65, § 1, 9-7-04)

Commented [TNE203]: Not criminalized per Brian Beasley's suggestion. Best handled with a civil penalty. There are criminal nuisances so it's probably best to keep these civil.

CHAPTER 4 Paraphernalia Intended for Illegal Drug Use

Sec. 12-4-1. Definitions.

- (a) The term "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance, the possession of which would constitute a violation of the laws of the State of North Carolina. It includes, but is not limited to:
- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
 - (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
 - (3) Isomerization devices used for, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
 - (4) Testing equipment used, intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
 - (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
 - (6) Dilutents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
 - (7) Separation gins and snifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
 - (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
 - (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
 - (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
 - (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
 - (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body.
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;

- d. Smoking and carburetion masks;
- e. Roach clips. Meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons, and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes or chillers.

(b) In determining whether an object is drug paraphernalia, the following factors, in addition to all other logically relevant factors, should be considered:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this Act;
- (4) The proximity of the object to controlled substances;
- (5) The existence of any residue of controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, intend to use the object to facilitate a violation of the laws of the State of North Carolina, relating to controlled substances; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this ordinance shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) Direct or circumstantial evidence of the ration of sales of the object(s) to the total sales of the business enterprise;
- (12) The existence and scope of legitimate uses for the object in the community;
- (13) Expert testimony concerning its use.

(Ord. of 6-5-80)

Sec. 12-4-2. Possession of drug paraphernalia.

It is unlawful for any person to knowingly use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze,

Commented [LAM204]: Not criminalized per Brian Beasley's suggestion. Covered under state law G.S. 90-113.22.

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(Supp. No. 4)

pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body, a controlled substance, the possession of which would be a violation of the laws of the State of North Carolina. Each separate and distinct item of drug paraphernalia unlawfully possessed shall constitute a separate violation.

(Ord. of 6-5-80)

Sec. 12-4-3. Manufacture or delivery of drug paraphernalia.

It is unlawful for any person to knowingly deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, a controlled substance, the possession of which would be a violation of the laws of the State of North Carolina. Each separate and distinct item of drug paraphernalia unlawfully delivered or possessed with intent to deliver shall constitute a separate violation.

(Ord. of 6-5-80)

Commented [LAM205]: Not criminalized per Brian Beasley's suggestion. Covered under state law G.S. 90-113.23

Sec. 12-4-4. Delivery of drug paraphernalia to a minor.

It shall be unlawful and constitute an additional violation for any person 18 years of age or over, who violates section 12-4-3, to knowingly deliver drug paraphernalia to a person under 18 years of age who is at least three (3) years his junior.

(Ord. of 6-5-80)

Commented [LAM206]: Not criminalized per Brian Beasley's suggestion. Covered under state law G.S. 90-113.23

CHAPTER 5 Smoking Prohibited in Specified Places

Sec. 12-5-1. Generally.

No person shall smoke or carry a lighted cigar, cigarette or pipe in any of the following places:

- (1) Elevators, regardless of capacity, for use by the general public.
- (2) Enclosed public areas of museums, public libraries, the Piedmont Environmental Center, and the Roy B. Culler Senior Center.
- (3) Public seating areas and adjacent aisles of the High Point Theatre.
- (4) Retail stores designed and arranged to accommodate more than 200 persons, or in which 25 persons or more are regularly employed. The prohibition of this subparagraph shall not apply to: (a) Smoking rooms, restrooms, restaurants, executive offices or beauty parlors in retail stores when specifically approved by the fire marshal by written order to the person having control of the premises upon a finding that such use therein does not constitute a fire hazard; or (b) those areas of enclosed shopping centers or malls that are external to the retail stores and are used by customers as a route of travel from one (1) store to another and consist primarily of walkways and seating arrangements.
- (5) Duly designated nonsmoking area of a restaurant. For this purpose, the owner of every restaurant, whether currently in existence or to be established in the future, with an indoor seating capacity of 50 or more seats shall designate a nonsmoking area consisting of at least 25 percent of the indoor seating capacity of the restaurant. In areas where smoking is prohibited, existing physical barriers and ventilation systems shall be used to the greatest extent possible to minimize the smoke in adjacent nonsmoking areas. Provided, this section shall not apply to the bar or lounge area of a restaurant (a

Commented [LAM207]: Decriminalized per Brian Beasley's suggestion. Best handled with a civil penalty.

separate area primarily devoted to serving alcoholic beverages); and neither shall the seating capacity of a bar or lounge area nor rooms used for private functions or banquets be included in the calculation of the total seating capacity of the restaurant.

(Ord. No. 93-79, § 1, 8-19-93)

Sec. 12-5-2. Placarding required.

- (a) Every person having control of premises upon which smoking or the carrying of lighted objects is prohibited by or under the authority of this chapter shall conspicuously display upon the premises signs reading "Nonsmoking Area—Smoking Prohibited by Law." Such signs must be of standard size and lettering approved by the fire marshal.
- (b) Sign removal prohibited. No person shall remove or deface any sign required to be erected by or under the authority of this section.

(Ord. No. 93-79, § 1, 8-19-93)

Sec. 12-5-3. Penalties.

Violation of any of the provisions of this chapter shall subject the violator to payment of a civil penalty in accordance with Section 1-1-4 of this Code and G.S. 160A-175 y of \$25.00, and shall also constitute a misdemeanor. Any person, or his agent, having control of any premises or place who knowingly permits a violation without requesting the violator to comply shall be subject to payment of the civil penalty provided for herein. Any duly authorized local government official is authorized either to send the civil penalty citation to the violator by certified mail or personally deliver such citation to the violator stating the nature of the violation, the amount of the penalty, and directing that the violator pay the penalty to the city tax collector's office within 14 days of receipt. Each day's continuing violation of any of the provisions of this chapter shall constitute a separate offense.

(Ord. No. 93-79, § 1, 8-19-93)

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CITY OF HIGH POINT

AGENDA ITEM



Title: Senate Bill 300 and the Decriminalization of Local Government Ordinances

From: City Attorney's Office

Date: Public Safety Committee
May 18, 2022

Public Hearing: NA

Advertising Date: NA

Advertised By: NA

Attachments: Summary of Decriminalization Revisions; Draft of Proposed Revisions

PURPOSE: To review and consider amendments to the Code of Ordinances, as required by state law.

BACKGROUND: In late 2021, the North Carolina legislature passed Session Law 2021-138 ("Senate Bill 300") which is a wide-ranging criminal justice reform law, addressing law enforcement and policing matters. Among other reforms, the law takes steps to decriminalize some local ordinances. Prior to this legislation, State law provided that a violation of any city ordinance was by default a misdemeanor (as provided by N.C.G.S. §14-4) unless the ordinance provided otherwise. In other words, there was a presumption in State law that the City could criminally enforce ordinance violations (by issuing a criminal citation and forcing the violator to appear in court and pay criminal penalties) even if the ordinance did not explicitly provide for such criminal enforcement. Senate Bill 300 reversed that presumption. Under the new statutory language, local governments must amend local ordinances to specifically identify violations that may be enforced criminally. Additionally, the legislation provides a list of ordinances that may no longer impose a criminal penalty.

City staff, including but not limited to the City Manager's Office, Police Department, Public Services Department, and City Attorney's Office, have worked together to review the Code of Ordinances and revise as required by Senate Bill 300.

BUDGET IMPACT: There is no direct budget impact to amending the Code of Ordinances, as required by state law.

RECOMMENDATION / ACTION REQUESTED:

The City Attorney's Office asks the Public Safety Committee to make a recommendation for City Council to approve the amendments, as required by state law.

Summary of Decriminalization Revisions to High Point's Code of Ordinances

Session Law 2021-138/Senate Bill 300

On September 2, 2021, the Governor signed Session Law 2021-138/Senate Bill 300 (“SB 300”) into law. SB 300 is a wide-ranging criminal justice reform law. Among other reforms, the law takes steps to decriminalize some local ordinances. Prior to this legislation, State law provided that a violation of any city ordinance was by default a misdemeanor (as provided by G.S. 14-4) unless the ordinance provided otherwise. In other words, there was a presumption in State law that the City could criminally enforce ordinance violations (by issuing a criminal citation and forcing the violator to appear in court and pay criminal penalties) even if the ordinance didn’t explicitly provide for such criminal enforcement. SB 300 reversed that presumption. Under the new statutory language, local governments must amend local ordinances to specifically identify violations that may be enforced criminally. Additionally, the legislation provides a list of ordinances that may no longer impose a criminal penalty. Any ordinance adopted under any of the following statutes may no longer impose a criminal penalty¹:

- Chapter 160D of the General Statutes (Planning and Development), or its predecessor statutes, except for those ordinances related to unsafe buildings;
- G.S. 153A-134, Regulating and licensing businesses, trades, etc.;
- G.S. 153A-138, Registration of mobile homes, house trailers, etc.;
- G.S.153A-140.1, Stream-clearing programs;
- G.S. 160D-912, Outdoor advertising, or its predecessor statute;
- G.S. 160D-914, Solar collectors, or its predecessor statute; and
- G.S. 153A-145, Limitations on regulating cisterns and rain barrels.

Procedural Background

The City Attorney’s Office worked with City staff, including but not limited to the Manager’s Office, Planning and Development Department, Police Department, and Public Services Department, to make the following proposed revisions to High Point’s Code of Ordinances (“Code”) in light of SB 300:

- Decriminalized sections of the Code that fall into the above categories that may no longer be criminalized;
- Decriminalized sections of the Code that are best enforced with civil penalties;

¹ SB 300 also prohibited imposing a criminal penalty for a violation of “any ordinance regulating trees.”

- Criminalized sections of the Code where criminal enforcement is allowed and necessary by specifying violations are punishable as a misdemeanor; and
- Standardized and codified a procedure for civil enforcement of the Code.

The following is a general summary of the lengthy process used in drafting the proposed revisions to the Code in light of SB 300:

- Searched the entire Code for the following terms to identify any sections of the ordinance that were currently criminalized: “criminal”, “punish”, “in accordance with”, “misdemeanor”, “commits an offense”, “14-4”, “175”.
- Decriminalized each section that could no longer be criminalized after SB 300.
- Identified any sections that are currently criminalized via a general criminal penalties section (i.e., where one section criminalized all the other sections in a Title, Chapter, or Article) and worked with City staff (e.g., Public Services for Title 6, Chapter 2, and Police Department for the remaining sections) to determine which specific sections could (and should) be criminalized.
- Reviewed other jurisdictions adopted criminalization/criminalization revisions.
- Incorporated all proposed revisions into a draft redline of the Code.
- Circulated for review and comment by the City Manager’s Office a draft redline of the Code with highlighted sections where the attorneys recommended decriminalizing, criminalizing, or where the section required a policy decision as to whether to criminalize or decriminalize.
- Met with the City Manager’s Office to finalize the draft redline of the Code based on the City managers’ input.
- Submitted questions regarding the revisions to the Code to the UNC School of Government, which were partially discussed at the Municipal Attorney’s Conference.
- Drafted “clean up” revisions to make the Code more consistent and clear, including revisions to the general civil enforcement section (Sec. 1-1-4) to provide uniformity for how the City issues notices of violation, civil penalties, and handles appeals.
- Finalized the draft redline of the Code for the Public Safety Committee’s review and prepared a list of sections in the current draft that are criminalized and/or where legal ambiguity still exists (due to the language used in SB 300).

Summary of Proposed Revisions

The following is a general summary of the proposed revisions to the Code in light of SB 300, which are listed by Title/Chapter/Article:

- Title 1, Chapter 1 (Use and Construction of the Code)²
 - Minor changes regarding how the Code is cited and definitions of terms.
 - Revised Sec. 1-1-4 to provide uniform process for civil enforcement of the Code.
 - Decriminalized altering the Code.
- Title 3, Chapter 2, Article C (Vehicle Lease or Rental Taxes)
 - Decriminalized one section that is already criminalized under state law.
- Title 5, Chapter 2, (Fire Prevention and Protection)
 - Decriminalized telephone alarm system prohibition.
- Title 5, Chapter 3, (Emergency Management)
 - Decriminalized one section that is already criminalized under state law.
- Title 6, Chapter 1 (Streets and Sidewalks)
 - Decriminalized ordinance regarding placement of hedges as ordinance that “regulates trees” (can’t be criminalized under SB 300).
- Title 6, Chapter 2 (Solid Waste Collection and Disposal)
 - Worked with the Public Services Director to decriminalize or criminalize each section and clean up sections that needed to be updated/clarified.
- Title 9, Article E (Minimum Housing Code)
 - Decriminalized all sections except those which could reasonably relate to “unsafe buildings.”
- Title 9, Article G (Regulation of Abandoned and Junked Motor Vehicles)
 - Allowed relevant section to remain criminalized because City gets its authority to enact the ordinance under G.S. § 160A-303.
- Title 9, Article I (Abandoned Structure Code)
 - Decriminalized all sections except those which could reasonably relate to “unsafe buildings.”
- Title 9, Article K (Trash, Debris, and Dilapidated Outbuildings Code)
 - Decriminalized because City likely derived authority to enact ordinance under 160D and there is no sufficient relation to “unsafe buildings.”
- Title 10 (Transportation and Traffic)
 - Worked with the Police Department Attorney to determine which sections needed to be decriminalized or criminalized.
- Title 11, Chapter 2 (Taxicab)

² Similar changes were made throughout the Code in the sections that were being revised for decriminalization or criminalization purposes.

- o Decriminalized most of the sections in the Chapter because the City likely derives authority to enact the sections under G.S. 160A-304, which means those sections cannot be criminalized under SB 300.
 - o Criminalized those sections that fall outside G.S. 160A-304.
- Title 11, Chapter 6 (Massage establishments) & Chapter 7 (Sexually oriented business)
 - o Decriminalized the sections in Chapters 6 and 7 where the City likely derives authority to enact the sections under 160A-194, which means those sections cannot be criminalized under SB 300.
- Title 12 (Offenses)
 - o Worked with Police Department Attorney to determine which sections needed to be decriminalized or criminalized.
 - o Made minor “clean up” revisions to several sections regarding civil penalties, fees, appeals, etc. to conform the with the revised Sec. 1-1-4.

Legend for Draft Redline of the Code

The color-coding highlights in the draft redline of the Code are as follows:

- **Yellow** = Staff recommends **clean-up/non-criminalizing related changes** (e.g., civil penalties sections).³
- **Red** = Staff recommends **not criminalizing** (it was *not* criminalized before) or **decriminalizing** (it *was* criminalized before, but now staff recommends decriminalizing) either because the section can't be criminalized under SB 300 or City staff recommend decriminalizing.
- **Green** = Staff recommends **criminalizing** it.
- No highlighting = Staff recommends not taking any action because it is not a section that can really be criminalized (e.g., definitions, applicability, administration, etc.).

³ The draft redline of the Code does not revise **all** sections of the Code that deal with civil penalties/appeals to reference back to the newly revised Section 1-1-4 (which now standardizes the civil enforcement process). This has been done for only the sections that were already being decriminalized or criminalized. The attorneys can go back and make those clarifying and consistency revisions to the other sections of the Code should the City Council decide it's appropriate to do so.