

CODE OF ORDINANCES
County of
CABARRUS, NORTH CAROLINA
Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2021-34, enacted December 20, 2021.

See the Code Comparative Table for further information.

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SLT:1—SLT:3

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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2020-50, enacted December 21, 2020.

See the Code Comparative Table for further information.

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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2017-29, enacted May 15, 2017.

See the Code Comparative Table for further information.

Remove Old Pages

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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2016-43, enacted October 17, 2016.

See the Code Comparative Table for further information.

Remove Old Pages

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Ordinance No. 2016-04, enacted March 21, 2016.

See the Code Comparative Table for further information.

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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2011-33, enacted September 19, 2011.

See the Code Comparative Table for further information.

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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2014-24, enacted September 15, 2014.

See the Code Comparative Table for further information.

Remove Old Pages

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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2013-19, enacted August 19, 2013.

See the Code Comparative Table for further information.

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Ordinance No. 2011-33, enacted September 19, 2011.

See the Code Comparative Table for further information.

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Ordinance No. 2011-28, enacted June 20, 2011.

See the Code Comparative Table for further information.

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Ordinance No. 2011-03, enacted February 21, 2011.

See the Code Comparative Table for further information.

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SUPPLEMENT NO. 14
November 2010

CODE OF ORDINANCES
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Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Session Law 2010-79, ratified July 9, 2010.

See the Special Acts Comparative Table for further information.

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SUPPLEMENT NO. 13
October 2010

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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2010-05, enacted June 21, 2010.

See the Code Comparative Table for further information.

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Ordinance No. 2010-04, enacted May 17, 2010.

See the Code Comparative Table for further information.

Included in the Special Acts is:

Ordinance No. 2010-04, enacted May 17, 2010.

See the Special Acts Comparative Table for further information.

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SUPPLEMENT NO. 11
April 2010

CODE OF ORDINANCES
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Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2010-01, enacted March 15, 2010.

See the Code Comparative Table for further information.

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SUPPLEMENT NO. 10
September 2009

CODE OF ORDINANCES

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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2009-10, enacted June 15, 2009.

See the Code Comparative Table for further information.

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SUPPLEMENT NO. 9
August 2009

CODE OF ORDINANCES
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Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2009-04, enacted January 20, 2009.

See the Code Comparative Table for further information.

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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2008-04, enacted March 24, 2008.

See the Code Comparative Table for further information.

Included in the Special Acts is:

Special Acts of 2006, Chapter 161.

See the Special Acts Comparative Table for further information.

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SUPPLEMENT NO. 7, REVISION
March 2006

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Looseleaf Supplement

This Supplement No. 7, Revision is printed to revise pages appearing in Supplement No. 7 and should be removed and inserted as directed below.

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This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 2005-20, enacted November 21, 2005.

See the Code Comparative Table for further information.

Included in the Specials Acts is:

Special Acts of 2005, Chapter 41.

See the Special Acts Comparative Table for further information.

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Ordinance No. 2003-04, enacted March 17, 2003.

See the Code Comparative Table for further information.

Included in the Special Acts is:

Special Acts of 2001, Ch. 439.

See the Charter Comparative Table for further information.

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Ordinance No. 2001-01, enacted February 19, 2001.

See the Code Comparative Table for further information.

Included in the Special Acts is:

Special Acts of 2000, Ch. 188.

See the Special Acts Comparative Table for further information.

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CABARRUS COUNTY NORTH CAROLINA

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Megan I. E. Smit
Clerk to the Board of Commissioners

PREFACE

This Code constitutes a complete codification of the general and permanent ordinances of Cabarrus County, North Carolina.

Source materials used in the preparation of the Code were the ordinances adopted by the board of commissioners. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which

may or may not appear in this Code at this time, and their corresponding prefixes:

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Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Jan Shekitka, Supervising Editor, and Robert MacNaughton, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Ms. Frankie F. Bonds, Clerk to the Board of Commissioners, and Mr. Fletcher L. Hartsell, Jr., County Attorney, for their cooperation and assistance during the progress of the work on this publication.

It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the county readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the county's affairs.

MUNICIPAL CODE CORPORATION
Tallahassee, Florida

ADOPTING ORDINANCE

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR CABARRUS COUNTY, NORTH CAROLINA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE SHALL BECOME EFFECTIVE.

BE IT ORDAINED by the Board of Commissioners of Cabarrus County, North Carolina:

Section 1. The Code entitled "Code of Ordinances, Cabarrus County, North Carolina" published by Municipal Code Corporation consisting of Chapters 1 through 82, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before November 15, 1993, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof, shall be punished in accordance with G.S. 14-4. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided shall apply to the amendment of any Code section whether or not such is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the Board of Commissioners may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in the form as to indicate the intention of the Board of Commissioners to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after November 15, 1993 that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective July 5, 1994.

Passed and adopted by the Board of Commissioners this 5th day of July, 1994.

/s/ Jeffrey L. Barnhart
Jeffrey L. Barnhart, Chairman
Cabarrus County Board of Commissioners

/s/ Frankie F. Bonds
Frankie F. Bonds, Clerk to the
Board

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Checklist of Up-to-Date Pages

(This checklist will be updated with the
printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

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SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code and are considered "Omitted."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

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PART I

SPECIAL ACTS*

Article I. Watershed Improvement Tax

- Sec. 1. Authority.
- Sec. 2. Laws in conflict repealed.
- Sec. 3. Effective date.

Article II. Offer of Condemned Land to Original Owner

- Sec. 1. G.S. 40A-10 amended.
- Sec. 2. Applicability.
- Sec. 3. Effective date.

Article III. Fire Tax District Boundaries in Cabarrus, Rowan, and Stanly Counties

- Sec. 1. Boundaries of Midland Fire District in Cabarrus County.
- Sec. 2. Boundaries of Allen Fire District in Cabarrus County.
- Sec. 3. Boundaries of Cold Water Fire District in Cabarrus County.
- Sec. 4. [Reserved.]
- Sec. 5. Boundaries of Flowes Store Fire District in Cabarrus County.
- Sec. 6. Boundaries of Georgeville Fire District in Cabarrus County.
- Sec. 7. Boundaries of Gold Hill Fire District in Rowan and Cabarrus Counties.
- Sec. 8. Boundaries of Harrisburg Fire District in Cabarrus County.
- Sec. 9. Boundaries of Jackson Park Fire District in Cabarrus County.
- Sec. 10. Boundaries of Mt. Mitchell Fire District in Cabarrus County.
- Sec. 11. Boundaries of M.P.R. Fire District in Cabarrus County.
- Sec. 12. Boundaries of Northeast Cabarrus Fire District in Cabarrus County.
- Sec. 13. Boundaries of Odell Fire District in Cabarrus County.
- Sec. 14. Boundaries of P.S.R. Fire District in Cabarrus County.
- Sec. 15. Boundaries of Poplar Tent Fire District in Cabarrus County.
- Sec. 16. Boundaries of Richfield Misenheimer Fire District in Stanly, Cabarrus, Rowan Counties.
- Sec. 17. Boundaries of Rimer Fire District in Cabarrus County.
- Sec. 18. Boundaries of Kannapolis Rural Fire District.
- Sec. 19. Area within corporate limits of Kannapolis removed from fire district.
- Sec. 19.1. [Allowing Cabarrus County to change the boundaries of fire districts.]
- Sec. 20. Effective date.

Article IV. Room Occupancy and Tourism Development Tax; Tourism Authority

- Sec. 1. Occupancy tax levy.
- Sec. 2. Establishment, appointment, and duties of Cabarrus County Tourism Authority.
- Sec. 3. Effective date.

***Editor's note**—Printed in this part are special acts relating to the county which the officials of the county deemed of interest to the reader of this volume.

CABARRUS COUNTY CODE

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- Sec. 1. Election authorized.
- Sec. 2. Description of district.
- Sec. 3. Ballot.
- Sec. 4. District established; tax levy.
- Sec. 5. Nature of district; governing body.
- Sec. 6. Comprehensive land use plan; advisory committee.
- Sec. 7. [Applicability of chapter 233 of 1987 session laws.]
- Sec. 8. [Condemned property.]
- Sec. 9. [Effective date of certain regulations during annexation.]
- Sec. 10. [Applicability of sections 7, 8 and 9 of the act.]
- Sec. 11. [Revision of fire district boundaries.]
- Sec. 12. [Effective date.]

Article VI. Lease or Sale of Board of Education Property to Board of Commissioners

- Sec. 1. Applicability of chapter 885 of session laws of 1989.
- Sec. 2. Authority of board of education to lease or sell property to board of commissioners.
- Sec. 3. Applicability of section 2.
- Sec. 4. Effective date.

Article VII. Centerfire Rifles

- Sec. 1. Discharging centerfire rifles; hunting deer with centerfire rifles.
- Sec. 2. Applicability of act.
- Sec. 3. Effective date.

Article VIII. Delegation of Rezoning Authority

- Sec. 1. Authority of city council to delegate rezoning authority to designated planning agency.
- Sec. 2. Authority of board of county commissioners to delegate rezoning authority to designated planning agency.
- Sec. 3. Applicability of sections 1 and 2.
- Sec. 4. Effective date.

Article IX. Thoroughfare Plan Implementation

- Sec. 1. Authority of county to acquire land for transportation improvements.
- Sec. 2. Donations and dedications of land.
- Sec. 3. Agreements with municipal governments.
- Sec. 4. Transferral of land to governmental agency carrying out construction.
- Sec. 5. Construction of act.
- Sec. 5.1. Applicability of act.
- Sec. 6. Effective date.

Article X. Expediting of Public School Facilities

- Sec. 1. [Authority to select and negotiate with separate-prime school building contractors.]
- Sec. 2. [Applicability of act.]
- Sec. 3. [Effective date.]

SPECIAL ACTS

Article XI. Authority to Allow a Design-Build Construction Method for a Convention Center

- Sec. 1. [Authority to use design-build or request-for-proposal method.]
- Sec. 2. [Leasing of adjacent property.]
- Sec. 3. [Effective date.]

Article XII. Authority of the Cabarrus Board of Equalization and Review to Meet After its Formal Adjournment

- Sec. 1. [Authority of the Board of Equalization and Review to meet after formal adjournment.]
- Sec. 2. [Effective date.]

Article XIII. Authority for Additional Voluntary Municipal Participation in Road Construction

- Sec. 1. [G.S. 135-66.3 amended.]
- Sec. 2. [Effective date.]

Article XIV. Authority to Allow a Negotiated Offer and Upset Bid Process for the Sale of the Current Cabarrus County Schools Central Office and for a Design-Build Construction Method for the Cabarrus School Central Office and Bus Facility

- Sec. 1. [Approval; action(s) to be taken.]
- Sec. 2. [Separability of actions.]
- Sec. 3. [Effective date.]

Article XV. Authorizing the County of Cabarrus to Use Electronic Means to Provide Public Notice in Lieu of Publication

- Sec. 1. [Adoption.]
- Sec. 2. [Applicability.]
- Sec. 3. [Effective date.]

Article XVI. [School Adequacy Review]

- Sec. 5. [Provision enforcement.]
- Sec. 6. [Effective date.]

Article XVII. An Act Concerning Public-Private Reimbursement Agreements for Infrastructure Development By Various Counties and Municipalities

- Sec. 1. [Agreements.]
- Sec. 2. [Enactment of ordinances.]
- Sec. 3. [Payment.]
- Sec. 4. [Reimbursement.]
- Sec. 5. [Definition.]
- Sec. 6. [Applicability.]
- Sec. 7. [Effective date.]

Article XVIII. Authorization for Several Additional Counties to Use a Tax Certification Process to Assist in the Collection of Delinquent Property Taxes

- Sec. 1. [G.S. 161-31 amended.]

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Sec. 2. [Effective date.]

**Article XIX. Authorization for an Increase in the Vehicle Tax in
Municipalities Located Wholly or Partly in Cabarrus County and to
Extend a Moratorium on Annexations into the County of Cabarras by
Municipalities Located Primarily Outside the County**

Sec. 1. [G.S. 20-97(b) amended.]
Sec. 2. [S.L. 2003-326 amended.]
Sec. 3. [Effective date.]

**ARTICLE I. WATERSHED
IMPROVEMENT TAX***

Sec. 1. Authority.

The Board of County Commissioners of Cabarrus County is hereby authorized to exercise power and authority under article 3 of chapter 139 of the North Carolina General Statutes, and for that purpose to levy, collect and expend funds derived from a special "watershed improvement tax," not to exceed two cents on each \$100.00 valuation of property in said county, by appropriate resolution of the board and without an election provided for under G.S. 139-39 and G.S. 139-40. The expenditure of funds derived from the special tax for the purposes of article 3, chapter 139 of the General Statutes is hereby declared to be for a special purpose for which the special approval of the General Assembly is hereby given, and a necessary expense.

Sec. 2. Laws in conflict repealed.

All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 3. Effective date.

This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1965.

***Editor's note**—Printed in this article is Chapter 615 of the Sessions Laws of 1965, an act authorizing Cabarrus County to buy, collect and expend funds derived from a watershed improvement tax. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines were added by the editor to facilitate indexing.

**ARTICLE II. OFFER OF CONDEMNED
LAND TO ORIGINAL OWNER†**

Sec. 1. G.S. 40A-10 amended.

G.S. 40A-10 is rewritten to read:

"§ 40A-10. *Sale or other disposition of land condemned.*—When any property condemned by a condemnor is no longer needed for the purpose of which it was condemned, it may be used for any other public purpose or it may be sold or disposed of in the following manner: The property shall be offered for a reasonable time, to the prior owner of the property, or his heirs, successors, or assigns, provided not more than ten years have lapsed since the property was purchased, at the price paid for the property whether arrived at through negotiation or judgment including the reasonable value of any improvements made on the property, and if this party shall refuse to purchase the property, then it may be sold or disposed of in the manner prescribed by law for the sale and disposition of surplus property."

Sec. 2. Applicability.

This act applies only to Cabarrus County and to any incorporated municipality partly or wholly in Cabarrus County.

Sec. 3. Effective date.

This act shall become effective October 1, 1985.

In the General Assembly read three times and ratified, this the 28th day of May, 1985.

†**Editor's note**—Printed in this article is Chapter 269 of the Sessions Laws of 1985, an act requiring that condemned land that is no longer needed should first be offered to the person from whom it was purchased. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines were added by the editor to facilitate indexing.

Cross reference—Amendment of statutes relative to condemned property, pt. I, art. V, § 8.

**ARTICLE III. FIRE TAX DISTRICT
BOUNDARIES IN CABARRUS,
ROWAN, AND STANLY COUNTIES***

**Sec. 1. Boundaries of Midland Fire District
in Cabarrus County.**

The boundaries of the Midland Fire District in Cabarrus County are as follows: Beginning at a point (1) on N.C. Highway 27 at the Cabarrus-Stanly County line; thence to a point (2) on the Cabarrus-Stanly County line where townships 9 and 10 intersect; thence westerly along the township line to a point (3) where it crosses Little Meadow Creek; thence in a southerly direction along Little Meadow Creek to a point (4) at its intersection with Rocky River; thence northwesterly along Rocky River to a point (5) where Bost Creek runs into Rocky River; thence in a northwesterly direction to a point (6) on Mt. Pleasant Rd., 0.2 mile south of its intersection with Joyner Rd.; thence in a westerly direction to a point (7) on U.S. Highway 601, 0.1 mile south of its intersection with Joyner Rd.; thence southerly along U.S. Highway 601 to a point (8) on U.S. Highway 601 0.3 mile south of its intersection with Flowes Store Rd. East excluding property 1500 feet east of U.S. Highway 601 between this and the preceding point; thence in a southerly direction along U.S. Highway 601 to a point (9) at its intersection with Cal Bost Rd.; thence westerly along Cal Bost Rd. to a point (10) at its intersection with Troutman Rd.; thence southerly along Troutman Rd. to a point (11) where it crosses Anderson Creek excluding property 1000 feet east of Troutman Rd. between this and the preceding point; thence westerly along Anderson Creek and Horton Branch to a point (12) where Sam Black Rd. crosses Horton Branch; thence in a southwesterly direction to a point (13) on N.C. Highway 27, 1000 feet east of its intersection with Flowes Store Rd.; thence in a southerly direction to a point (14) on Flowes Store

***Editor's note**—Printed in this article is Chapter 558 of the Sessions Laws of 1987, an act conforming certain fire tax district boundaries in Cabarrus, Rowan, and Stanly counties to insurance district boundaries. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines were added by the editor to facilitate indexing.

Rd. (1132) 0.5 mile south of its intersection with N.C. Highway 27; thence in a southerly direction to a point (15) on Flowes Store Rd. (1132) at the Cabarrus-Mecklenburg County line; thence southeasterly along the Cabarrus-Mecklenburg and Cabarrus-Union County line to a point (16) at the Cabarrus-Union-Stanly County lines; thence northeasterly along the Cabarrus-Stanly County line to the point of beginning.

**Sec. 2. Boundaries of Allen Fire District in
Cabarrus County.**

The boundaries of the Allen Fire District in Cabarrus County are as follows: Beginning at a point (1) in the southern city limits line of the City of Concord, N.C. at Manor Ave.; thence southerly to a point (2) on Irish Buffalo Creek, 500 feet north of N.C. Highway 49; thence in a westerly direction parallel with N.C. Highway 49 to a point (3) 500 feet west of its intersection with Zion Church Road (1155); thence running parallel with and 500 feet west of Zion Church Road southerly to a point (4) 500 feet west of Zion Church Rd. (1155) due north of where Reedy Creek joins Rocky River; thence due south to a point (5) where Reedy Creek joins Rocky River; thence in an easterly direction with Rocky River to a point (6) 500 feet west of U.S. Highway 601; thence 500 feet west of parallel to U.S. Highway 601 to a point (7) 500 feet south of Parks Lafferty Road; thence in a northeasterly direction to N.C. Highway 200 to a point (8) 700 feet east of Hamby Branch; thence in a northerly direction to a point (9) on Miami Church Road 1000 feet east of its intersection with Joe Bost Road; thence in a northerly direction to a point (10) on Joe Bost Rd. (2627) 0.1 mile south of its intersection with Bost Cut Off Rd. (2626), including property 1000 feet east of Joe Bost Rd. and Silver Haven Estates between this and the preceding point; thence in a northwesterly direction to a point (11) on Cold Springs Road South, 0.2 mile south of Cold Spring Road (said point being at line of Mt. Pleasant Volunteer Fire District); thence northerly with said Mt. Pleasant Volunteer Fire District line to a point (12) on N.C. Highway 49, 200 feet west of its intersection with Cold Springs Church Road (said point being at the line of Mt. Pleasant Volunteer Fire District and Cold Water Volunteer Fire District [revised]);

westerly direction with Cold Water Volunteer Fire District [revised]; to a point (13) at Cold Water Creek and Little Cold Water Creek; thence in a northerly direction with Cold Water Creek to its meeting with Three Mile Branch (point 14); thence in a northerly direction with Three Mile Branch to its intersection with the city limit line of the City of Concord, N.C. (point 15); thence in a southerly and westerly direction with the city limit line of Concord, N.C. to the point of beginning.

Sec. 3. Boundaries of Cold Water Fire District in Cabarrus County.

The boundaries of the Cold Water Fire District in Cabarrus County are as follows: Beginning at a point (1) in the southern limits line of the city of Concord, N.C. on Three Mile Branch and running with Three Mile Branch in a southerly direction to a point (2) at Cold Water Creek; thence in a southerly direction with Cold Water Creek to a point (3) at Little Cold Water Creek; thence in an easterly direction to a point (4) on N.C. Highway 49, 200 feet west of its intersection with Cold Spring Rd. (2411) [said point being at the line of Mt. Pleasant Volunteer Fire District]; thence in a northerly direction along with the line of Mt. Pleasant Volunteer Fire District to a point (5) on N.C. Highway 73, being 700 feet west from Adams Creek; thence in a northerly direction to a point (6) at the intersection of St. Johns Church Road (2414) and Cress Rd. (2415); thence due north to a point (7) on the Rimer Fire District Line 4000 feet east of Gold Hill Rd. (2408), including property on Baucom Rd. between this and the preceding point; thence westerly along the Rimer Fire District line to a point (8) in Gold Hill Rd. (2408) being 200 feet southwest of its crossing of Dutch Buffalo Creek; thence in a northwesterly direction to a point (9) on Irish Potato Rd. (2400) 1.35 miles from its intersection with Gold Hill Rd. (2408); thence in a westerly direction to a point (10) on Sapp Rd. (2402), 0.1 mile north of its crossing of Little Buffalo Creek; thence in a northwesterly direction to a point (11) in Old Salisbury Rd. (1002), 1.05 miles north from its intersection with Sapp Rd. (2402); thence in a westerly direction to a point (12) at the intersection of Centergrove Rd. (2014) and Hilton Lake Rd. (2116); thence in

a southwesterly direction to a point (13) where it intersects with the Winecoff Volunteer Fire District, 500 feet north of Burrage Rd. at the Concord city limits; thence in a southerly direction with the city limits line of the City of Concord, N.C. to the point of beginning.

Sec. 4. [Reserved.]

Editor's note—Ord. No. 2010-04, adopted May 17, 2010, deleted Art. III, § 4, which pertained to the boundaries of the Enochville Fire District in Cabarrus County.

Sec. 5. Boundaries of Flowes Store Fire District in Cabarrus County.

The boundaries of the Flowes Store Fire District in Cabarrus County are as follows: Beginning at a point (1) on Flowes Store Rd. (1132) at the bridge over Rocky River; thence in an easterly direction, following Rocky River to a point (2) on U.S. 601; thence in a southerly direction along U.S. 601 to a point (3), 500 feet south of its intersection [with] Parks Lafferty Rd. (1148), excluding all property 500 feet west of U.S. 601 between this and the preceding point; thence in a southerly direction along U.S. 601 to a point (4) 500 feet south of its intersection with Joyner Rd. (1105); thence in a southerly direction along U.S. 601 to a point (5), 0.3 mile south of its intersection with Flowes Store Rd. East (1147), including all property 1500 feet east of U.S. 601 between this and the previous point; thence in a southerly direction along U.S. 601 to a point (6), at its intersection with Cal Bost Rd. (1143); thence in a westerly direction along Cal Bost Rd. (1143) to a point (7) at its intersection with Troutman Rd. (1145); thence in a southerly direction along Troutman Rd. (1145) to a point (8) where it crosses Anderson Creek, including all property 1000 feet east of Troutman Rd. (1145) between this and the preceding point; thence southwesterly along Anderson Creek and Horton Branch to a point (9), where Sam Black Rd. (1127) crosses Horton Branch; thence in [a] southwesterly direction to a point (10) on N.C. 27, 1000 feet east of its intersection with Flowes Store Road (1132); thence in a southwesterly direction to a point (11) on Flowes Store Rd. (1132) 0.5 mile south of its intersection with N.C. 27; thence southwesterly along Flowes Store Rd. (1132) to a point (12) on Flowes Store Rd.

(1132) at the Cabarrus-Mecklenburg County Line; thence northeasterly along the Cabarrus-Mecklenburg County Line to a point (13) on Lower Rocky River Rd. (1136) at the Cabarrus-Mecklenburg County Line; thence in a northerly direction to a point (14) at the intersection of Lower Rocky River Rd. (1136) and Hickory Ridge Rd. (1138); thence in a northeasterly direction to a point (15) on Lower Rocky River Rd. (1136) at the Reedy Creek bridge; thence in a northerly direction to Rocky River and continuing along the river to the point of beginning.

to a point (12) on Mount Pleasant Rd. (1006) 0.2 mile south of its intersection with Joyner Rd. (1105); thence due south to a point (13) where Bost Creek enters Rocky River; thence in a southerly direction following Rocky River to a point (14) where Meadow Creek enters Rocky River; thence in a northeasterly direction along Meadow Creek to a point (15) on the Cabarrus-Stanly County line; thence in a northeasterly direction with the Cabarrus-Stanly County line to the point of beginning.

Sec. 6. Boundaries of Georgeville Fire District in Cabarrus County.

The boundaries of the Georgeville Fire District in Cabarrus County are as follows: Beginning at a point (1) on the Cabarrus-Stanly county line; thence following the county line northeasterly to a point (2) where Barrier Store Rd. (2622) crosses the Cabarrus-Stanly County line; thence in a northwesterly direction to a point (3) on Cauble Rd. (2616) 0.3 mile north of its intersection with Barrier Store Rd. (2622); thence in a northwesterly direction to a point (4) on Barrier Store Rd. (2622) 0.1 mile southeast of its intersection with Hahn Scott Rd. (2617); thence in a westerly direction to a point (5) on Barrier-Georgeville Rd. 0.2 mile south of its intersection with Barrier Store Rd. (2622); thence in a southwesterly direction to a point (6) on Mount Pleasant Rd. (1006) 0.3 mile northwest from its intersection with Miami Church Rd. (1132); thence in a northwesterly direction along the Mt. Pleasant Fire District line to a point (7) on said line 1000 feet east of Joe Bost Rd. (2627); thence in a southerly direction to a point (8) on Miami Church Rd. (1132) 1000 feet east of its intersection with Joe Bost Rd. (2627), excluding property 1000 feet east of Joe Bost Rd. (2627) and Silverhaven Estates between this and the preceding point; thence in a southwesterly direction to a point (9) on N.C. Highway 200 1.6 miles northwest of its intersection with Mount Pleasant Rd. (1006); thence in [a] southwesterly direction to a point (10) on U.S. Highway 601, 500 feet south of its intersection with Parks Lafferty Rd.; thence in a southerly direction to a point (11) on U.S. 601, 0.1 mile south of its intersection with Joyner Rd. (1105); thence in an easterly direction

Sec. 7. Boundaries of Gold Hill Fire District in Rowan and Cabarrus Counties.

The boundaries of the Gold Hill Fire District in Rowan and Cabarrus Counties are as follows: Beginning at a point (1) on St. Peters Church Rd. (2370) 0.4 mile south of its intersection with Hill Rd. (2366) and proceeding southeasterly to a point (2) at the west end of a new grade road thence along said road approximately 0.3 mile to a point (3) at its intersection with Liberty Rd. (2140) 2.7 miles from West Liberty Fire Department and proceeding east to a point (4) at the intersection of Barber Rd. (2364) with Morgan Rd. (2142) thence northeasterly to a point (5) on High Rock Rd. (2143) at Flat Creek, being approximately 1 mile southwest of High Rock Rd. (2143) and Stokes Ferry Rd. (1004); thence in a southerly direction to a point (6) on Old Beatty Ford Rd. (2356) at the point of Riles Creek Crossing said road; thence in a southwesterly direction to a point (7) on U.S. Highway 52 at the Cabarrus-Rowan County line; thence in a southwesterly direction to a point (8) on Short Cut Rd. (2455) 0.4 mile northwest of its intersection with Mattons Grove Church Rd. (2456); thence southerly to a point (9) on Mattons Grove Church Rd. (2456) 0.2 mile east of its intersection with Short Cut Rd. (2455); thence southwesterly to a point (10) at the intersection of Short Cut Rd. (2455) and Gold Hill Rd. East (2450); thence westerly to a point (11) on Shelly Rd. (2452) 0.5 mile north of its intersection with Culp Rd. (2452); thence westerly to a point (12) at the intersection of St. Stevens Church Rd. (2444) and Kluttz Rd. (2435); thence southwesterly along St. Stevens Church Rd. (2444) to a point (13) to its intersection with Sansberry Rd. (2416), excluding property 500 feet west of St. Stevens Church Rd. (2444) between this and the preceding point; thence to a point (14) on Little Buffalo Creek Rd. (2442) at the bridge over Little Buffalo Creek; thence northeasterly to a point (15) at the intersection of Mt. Olive Rd. (2446) and Cline Rd. (2447); thence in a northerly direction along Mt. Olive Rd. (2446) to a point (16) on Mt. Olive Rd. (2446) 0.2 mile north of its intersection with Kluttz Rd. (2435); thence northwesterly and crossing the Rowan-Cabarrus County line to a point (17) on Oliver Rd. (2357) 0.6 mile west of its intersection with Emanuel Church Rd. (2338); thence in a northeasterly direction to a point (18) at the intersec-

tion of Emanuel Church Rd. (2338) and Old Beatty Ford Rd. (1221); thence in a northeasterly [direction] to a point (19) at the intersection of Eller Rd. (2346) and Gin Rd. (2347); thence along Gin Rd. (2347) in a northerly direction to a point (20) at the intersection of Gin Rd. (2347) and George Brown Rd. (2348) thence in a northeasterly direction to a point (21) where Zion Church Rd. intersects with U.S. Highway 52; thence in a northerly direction along a line 500 feet west of St. Peter's Church Rd. (2370) to a point (22) which is 500 feet west of point (1) the beginning; thence east 500 feet to point (1) the beginning, including all lands within the bounds of this district.

Sec. 8. Boundaries of Harrisburg Fire District in Cabarrus County.

The boundaries of the Harrisburg Fire District in Cabarrus County are as follows: Beginning at a point (1) at the intersection of U.S. [Highway] 29 and Roberta Church Rd. (1310); thence southwest-erly to a point (2) at the intersection [of] Pitts School Rd. (1305) and Hedgemore Rd. (1433); thence to a point (3) on Morehead Rd. (1300), 0.1 mile south of its intersection with U.S. [Highway] 29; thence southwesterly to a point (4) at the intersection of U.S. [Highway] 29 and Hudsbeth Rd. (1302); thence southwesterly to a point (5) on U.S. [Highway] 29 at the Cabarrus-Mecklenburg County line; thence southeasterly along the Cabarrus-Mecklenburg County line to a point (6) on Lower Rocky River Rd. (1136); thence to a point (7) at the intersection of Lower Rocky River Rd. (1136) and Hickory Ridge Rd. (1138); thence north-easterly to a point (8) on Lower Rocky River Rd. (1136) at the Reedy Creek Bridge; thence north-erly to a point (9) on Rocky River; thence in a general northwesterly direction along Rocky River and Coddle Creek to a point (10) 0.5 mile north-west of the bridge on Roberta Rd. (1307); thence northerly to the point of beginning.

Sec. 9. Boundaries of Jackson Park Fire District in Cabarrus County.

The boundaries of the Jackson Park Fire Dis-trict in Cabarrus County are as follows: Begin-ning at point (1) on U.S. Highway 29 4500 feet north of its intersection with Roberta Church Rd., this point being at the southwest corner of the Concord city boundaries; thence southwesterly

along U.S. Highway 29 to point (2) at its intersection with Roberta Church Road U.S. [Highway] 29; thence in a southerly direction to point (3) in Coddle Creek, 0.5 mile northwest of the Coddle Creek Bridge on Roberta Mill Road; thence southeasterly along Coddle Creek to point (4) at Rocky River and Rocky River Road (1139); thence easterly along Rocky River to point (5) where Reedy Creek joins Rocky River; thence due north to a point (6) 500 feet west of Zion Church Rd. (1152); thence northerly along Zion Church Road (1152) and 500 feet west of said road to point (7) at the intersection with N.C. 49; thence northeasterly along N.C. 49, and 500 feet north of said road to a point (8) at Irish Buffalo Creek; thence northerly to point (9) on U.S. 601 Bypass at its intersection with Manor Ave. at Concord city limits; thence following the Concord city limits to the point of beginning.

Sec. 10. Boundaries of Mt. Mitchell Fire District in Cabarrus County.

The boundaries of the Mt. Mitchell Fire District in Cabarrus County are as follows: Beginning at a point (1) on Old Salisbury Rd. (1002), 0.1 mile north of its intersection with Cline Rd. (2570); thence in a northwesterly direction to a point (2) on Moose Rd. (1308), 0.4 mile east of its intersection with Goldfish Rd. (1348); thence in a northerly direction to a point (3) on Beatty Ford Rd. (1221), 0.5 mile east of its intersection with Goldfish Rd. (1348); thence in a westerly direction a point (4) on Old China Grove Rd. (1238), 0.2 mile north of its intersection with Beatty Ford Rd. (1221); thence in [a] southwesterly direction to a point (5) at the Kannapolis City limit north of the north end of Washington Ln.; thence in a southerly direction following the Kannapolis City limits to a point (6) south of the intersection of Dalewood Ave. and Hopedale St.; thence in a southwesterly direction to a point (7) on the Kannapolis City limit at the northeast end of Valwood St. (2210); thence easterly and southerly along the Kannapolis City limit to a point (8) at the corner of the Forrestbrook subdivision southeast of the end of Windingbrook Rd.; thence due east to a point (9) in Cold Water Creek; thence in a southeasterly direction to a point (10) in Cold Water Creek at the Cold Water Fire District boundary, this point being approximately 9700 feet south east of the bridge over

Cold Water Creek on Centergrove Rd. (2114); thence in an easterly direction to a point (11) at the intersection of Centergrove Rd. (2114) and Hilton Lake Rd. (2116); thence in an easterly direction to a point (12) on Old Salisbury Rd. (1002), 1.2 miles south of its intersection with Camp Julia Rd. (2119); thence in a southwesterly direction to a point (13) on Sapp Rd. (2402), 0.5 mile northeast of its intersection with Old Salisbury Rd. (1002); thence in an easterly direction to a point (14) where the middle fork of Little Cold Water Creek crosses a line from point (13) to a point on Irish Potato Rd. 1.0 mile south of Barrier Rd. thence northeasterly along the middle fork of Little Cold Water Creek to a point (15) on Sapp Rd. (2402), 0.3 mile southwest of its intersection with Rimer Rd. (2400), including property on Sapp Rd. (2402) between this and the preceding point; thence in a northerly direction to a point (16) on Irish Potato Rd. (2400), 0.6 mile southeast of the Cabarrus County line; thence northerly to a point on the Cabarrus-Rowan County line; thence in a northwesterly direction to the point of beginning.

Sec. 11. Boundaries of M.P.R. Fire District in Cabarrus County.

The boundaries of the M.P.R. Fire District in Cabarrus County are as follows: Beginning at point (1) on N.C. 73 and the Cabarrus-Stanly County line; thence northwesterly to point (2) at Little Bear Creek bridge on Lentz Harness Shop Road (2453); thence northwesterly to point (3) on Dutch Road (2604) at Butcher Creek; thence northwesterly to point (4) on N.C. 49 at the intersection with Little Buffalo Creek Road (2442); thence northerly and 500 feet west of Little Buffalo Creek Road (2442) to point (5) 0.7 mile north of the intersection of N.C. 49; thence northwesterly to point (6) on Mt. Olive Road (2416) at its intersection with Fink Road (2441); thence southwesterly to a point (7) on Gold Hill Road (2408) 0.4 mile west of its intersection with Mt. Olive Rd. (2416); thence westerly to point (8) on Nellie Beaver Road (2426), 0.4 mile southwest of its intersection with Gold Hill Road (2408); thence northwesterly to point (9) on Mt. Pleasant Faith Road (1006) 1.4 miles north of the intersection with Mt. Olive Road (2416); thence southwesterly to point (10) on Cline School Road (2427) 0.7 mile north of the intersection with

Cress Road (2415); thence westerly along the Rimer Fire District line to a point (11) on said line 4000 feet east of Gold Hill Rd. (2408); thence due south to a point (12) at the intersection of St. Johns Church Rd. (2414) and Cress Rd. (2415), excluding property on Baucom Rd. between this and the preceding point; thence southwesterly to point (13) on N.C. 73 0.1 mile west of Adams Creek Bridge; thence southerly to point (14) on Cold Springs Road (2411), 0.1 mile northwest of its intersection with N.C. 49; thence southeasterly to point (15) on N.C. 49, 0.1 mile southwest of the intersection with Cold Springs Road (2411); thence southeasterly to point (16) on Cold Springs Rd. South (2630), 0.2 mile southwesterly of the intersection with Cold Springs Road (2411); thence southeasterly to point (17) on Joe Bost Road (2627) 0.1 mile south of the intersection with Bost Cut Off Road (2626); thence southeasterly to point (18) on Mt. Pleasant Road (1006) 0.7 mile south of the intersection with Bost Cut Off Road (2626) thence northeasterly to point (19) on Barrier-Georgeville Road (1100) 0.2 mile south of the intersection with Barrier Store Road (2622); thence easterly to point (20) on Barrier Store Road (2622) 0.1 mile southeast of the intersection with Hahn Scott Road (2617); thence easterly to point (21) on Cauble Rd. (2616) 0.3 mile south of Paige Rd. (2614); thence northeasterly to a point (22) on Paige Rd. (2614) 0.2 mile west of its intersection with T. Lewis Rd. (2615); thence easterly to a point (23) on Paige Rd. (2616) 0.4 mile east of its intersection with T. Lewis Rd. (2615); thence due east to a point (24) on the Cabarrus-Stanly County line; thence northeasterly along the Cabarrus-Stanly County Line to the point of beginning.

Sec. 12. Boundaries of Northeast Cabarrus Fire District in Cabarrus County.

The boundaries of the Northeast Cabarrus Fire District in Cabarrus County are as follows: Beginning at a point (1) at the intersection of St. Stevens Church Rd. (2444) and Kluttz Rd. (2435); thence easterly to a point (2) on Shelly Rd. (2451), 0.5 mile north of its intersection with Culp Rd. (2452); thence easterly to a point (3) at the intersection of Short Cut Rd. (2455) and Gold Hill Rd. east (2450); thence southerly along Gold Hill Rd. (2450), including property within 500 feet east, to

a point (4) at the Cabarrus-Stanly County line; thence southwesterly along the Cabarrus-Stanly County line to a point (5) at N.C. Highway 73; thence northwesterly to a point (6) at Little Bear Creek Bridge on Lentz Harness Shop Rd. (2453); thence northwesterly to a point (7) on Dutch Rd. (2604) at Butcher Creek; thence northwesterly to a point (8) on N.C. Highway 49 at its intersection with Little Buffalo Creek Rd. (2442) northerly and 500 ft. west; thence to a point (9) paralleling Little Buffalo Creek Rd. (2442) 0.7 mile north of its intersection with N.C. Highway 49; thence westerly to a point (10) on Mt. Olive Rd. (2416) at its intersection with Fink Rd. (2441); thence northerly along Mt. Olive Rd. (2416) to a point (11) on Mt. Olive Rd. (2416) 0.2 mile north of its intersection with Fink Rd. (2441) including property 1000 feet west of Mt. Olive Rd. (2416) between this and the preceding point; thence northerly to a point (12) on Mt. Olive Rd. (2416) 0.2 mile south of its intersection with Vineyard Rd. (2439), excluding property 1000 feet east of Mt. Olive Rd. (2416) between this and the preceding point; thence northwesterly to a point (12) on Vineyard Rd. (2439) 0.2 mile west of its intersection with Mt. Olive Rd. (2416); thence northerly to a point (13) on Emmanuel Rd. (2445) at its intersection with Kluttz Rd. (2435); thence northeasterly to a point (14) on Mt. Olive Rd. (2446) 0.2 mile north of its intersection with Kluttz Rd. (2435); thence southerly along Mt. Olive Rd. (2446) to a point (15) at the intersection of Mt. Olive Rd. (2446) and Cline Rd. (2447); thence in a southeasterly direction to a point (16) on Little Buffalo Creek Rd. (2442) at the Little Buffalo Creek Bridge thence northeasterly to a point (17) at the intersection of Sansberry Rd. (2416) and St. Stevens Church Rd. (2444), thence northeasterly along St. Stevens Church Rd. (2444), including property within 500 feet of the west side, to the point of beginning.

Sec. 13. Boundaries of Odell Fire District in Cabarrus County.

Editor's note—Per county's instruction, art. III, § 13, has been incorporated into chapter 34 as § 34-2.

Cross reference—Revision of Odell Fire District boundaries, pt. I, art. V, § 11.

Sec. 14. Boundaries of P.S.R. Fire District in Cabarrus County.

The boundaries of the P.S.R. Fire District (PSR Fire District) in Cabarrus County are as follows:

Beginning at a point (1) at the intersection of Coddle Creek and the Transmission line of Duke Power Company; thence in a southerly direction to a point (2) at the intersection of Woodhaven Rd. (1441) and Poplar Tent Rd. (1394), including property on Goodman Rd. (1441) and Woodhaven Rd. (1441); thence in a southwesterly direction to a point (3) at the intersection of Weddington Rd. (1431) and Concord Farms Rd. (1432); thence in a southeasterly direction to a point (4) at the intersection of U.S. Highway 29 and Roberta Church Rd. (1310); thence in a southwesterly direction to a point (5) at the intersection of Pitts School Rd. (1305) and Hedgemore Rd. (1433), excluding property on Hedgemore Rd. (1433); thence in a southwesterly direction to a point (6) on Morehead Rd. (1300), 0.1 mile southeast of its intersection with U.S. Highway 29; thence in a southwesterly direction to a point (7) at the intersection of U.S. Highway 29 and Hudspeth Rd. (1302); thence in a southwesterly direction to a point (8) on U.S. Highway 29 at the Cabarrus-Mecklenburg County line; thence in a northwesterly direction along the Cabarrus-Mecklenburg County line to a point (9) on Interstate 85 at the Cabarrus-Mecklenburg County line; thence in a northwesterly direction to a point (11) on Derita Rd. (1445) 0.5 mile south of Altacrest Dr.; thence in a northerly direction to a point (12) on Derita Rd. (1445) 0.8 mile south of its intersection with Poplar Tent Rd. (1394); thence in a northwesterly direction to a point (11) at the intersection of Poplar Tent Rd. (1394) and Odell School Rd. (1442), including all property on Ivey Cline Rd. (1439); thence in a northwesterly direction to point (1), the point of beginning, excluding property on Untz Rd. (1444).

Cross reference—Revision of P.S.R. Fire District Boundaries, pt. I, art. V, § 11.

Sec. 15. Boundaries of Poplar Tent Fire District in Cabarrus County.

The boundaries of the Poplar Tent Fire District in Cabarrus County are as follows: Beginning at a point (1) on U.S. Highway 29, 200 feet south of its intersection with Lisk Ave.; thence in a northerly direction along U.S. Highway 29 and the Concord city limits to a point (2) on U.S. Highway 29 200 feet north of its intersection with Parkway Dr.; thence westerly to a point (3) in the center of Buffalo Creek, (one the west side of U.S. Highway

29); thence running northwesterly along the course of Buffalo Creek to a point (4) 500 feet south of N.C. Highway 73 on Buffalo Creek; thence westerly along a line 500 feet south of and parallel with N.C. Highway 73, excluding all dead end roads entering N.C. Highway on the south side, continuing westerly in the same course 500 feet south of and parallel with N.C. Highway 73, to a point (5) at the center of the right-of-way for Duke Power Company transmission lines (just west of the N.C. Highway 73 and Interstate 85 interchange); thence running southwesterly with said Duke Power Company right-of-way to a point (6) at the center of Coddle Creek where the transmission lines cross Coddle Creek; thence along an imaginary line in a southerly direction to a point (7) at the intersection of Goodman Rd. (1441) and Poplar Tent Rd. (0.30 mile east of Poplar Tent Presbyterian Church); thence in a southeasterly direction along an imaginary line to a point (8) at the intersection of Weddington Rd. and Arbor Acres Rd. (1432); thence running east southeast, to a point (9) on U.S. Highway 29 at its intersection with Roberta Church Rd.; thence northerly along U.S. Highway 29 and the Concord city limits to the point of beginning.

Cross reference—Poplar Tent Beautification District, pt. 1, art. V.

Sec. 16. Boundaries of Richfield Misenheimer Fire District in Stanly, Cabarrus, Rowan Counties.

The boundaries of the Richfield Misenheimer Fire District in Stanly, Cabarrus, and Rowan Counties are as follows: Beginning at a point (1) on N.C. Highway 49 four (4) miles west of [the] fire station, this being 0.6 mile west of the Stanly-Cabarrus County line; thence northeast for 3.3 miles to a point (2) on U.S. Highway 52 at the Cabarrus-Rowan line; thence 2.4 miles to the intersection of Reeves Island (an Extension in Rowan of Zion Church Rd. in Stanly and Beatty's Ford Rd.; thence east with Beatty's Ford Rd. 1.0 mile to [its] intersection with Stokes Ferry Rd.; thence southeast with Stokes Ferry Rd. 2.0 miles to Riles Creek bridge; thence south 0.3 mile with the course of the creek to the Stanly County line; thence east 0.5 mile with the Stanly-Rowan County line to Heglar Rd.; thence south 0.4 mile with Heglar Rd. to [its] intersection with N.C. High-

way 49; thence west 0.2 mile with Highway 49 to [its] intersection with N.C. Highway No. 8; thence with the New London Fire District line south 2.3 miles to a point on the old New London Rd. 0.3 mile south of [the] bridge over Gold Branch; thence south 0.6 [mile] to the intersection of Parker Church Rd. and U.S. Highway 52; thence 0.4 mile southeast with Parker Church Rd. to [its] intersection with Danville Rd.; thence south with Danville Rd. 1.3 miles to the intersection with Old Albemarle Rd.; thence south with Old Albemarle Rd. 0.3 mile to [its] intersection with Parker Mine Rd.; thence with Parker Mine Rd. 0.2 mile west to [its] intersection with Moss Rd.; thence south with Moss Rd. 0.6 mile to [its] intersection with Burris Rd.; thence west with Burris Rd. 0.5 mile to [its] intersection with Kendall's Church Rd.; thence south 1.0 mile with Kendall's Church Rd. to [its] intersection with Rogers Rd.; thence northwest 1.0 mile to a point on Burris Rd. 0.5 mile east of [the] intersection of Burris Rd. with Millingport Rd.; thence west 0.6 mile to [the] intersection of Millingport Rd. and Rogers Rd.; thence northwest 0.8 mile to a point on Brooks Road 1.0 mile west of intersection of [sic] intersection of Brooks Rd. and Millingport Rd.; thence west 0.7 mile to a point on Paul's Crossing Rd. 0.2 mile north of [the] intersection of Paul's Crossing Rd. and Rogers Rd.; thence north 1.3 miles to a point on Ridenhour Rd. 0.6 mile south of [the] intersection of Ridenhour Rd. with N.C. Highway 49; thence west 1.2 miles to the point of beginning.

Sec. 17. Boundaries of Rimer Fire District in Cabarrus County.

The boundaries of the Rimer Fire District in Cabarrus County are as follows: Beginning at a point (1) where the Mount Pleasant Faith Road crosses the Cabarrus-Rowan County line; thence in an easterly direction to a point (2) on Rockwell Rd. (2437) at the Cabarrus-Rowan County line; thence in a southeasterly direction to a point (3) on Kluttz Rd. (2435) at its intersection with Emmanuel Rd. (2445); thence in a southwesterly direction to a point (4) on Bostian Fisher Rd. (2438) 0.2 mile east of Rockwell Rd. (2437); thence in a southerly direction to a point (5) on Vineyard Rd. (2439) 1.2 miles east of its intersection with Gold Hill Rd. (2408); thence in a southerly direc-

tion to a point (6) on Gold Hill Rd. (2408) 0.4 mile west of its intersection with Mt. Olive Rd. (2446); thence in a westerly direction to a point (7) on Nellie Beaver Rd. (2426) 0.4 mile south of its intersection with Gold Hill Rd. (2408); thence in a westerly direction to a point (8) on Mount Pleasant Faith Road 1.3 miles south of its intersection with Gold Hill Road (at Mt. Pleasant Rural Fire District line); thence in a southwesterly direction to a point (9) on Cline School Road (2427) 1.3 miles south of its intersection with Gold Hill Road; thence in a westerly direction to a point (10) on Gold Hill Road 0.1 mile west of the bridge over Dutch Buffalo Creek; thence in a northwesterly direction to a point (11) on Irish Potato Road (2411), 1.0 mile south of its intersection with Barrier Road; thence in a westerly direction to a point (12) where the middle fork of Little Buffalo Creek crosses a line from point (11) to a point on Sapp Rd. (2402), 0.5 mile northeast of its intersection with Old Salisbury Rd. (1002); thence northerly along the middle fork of Little Gold Water Creek a point (13) Sapp Rd. (2402) 0.3 mile southwest of its intersection with Irish Potato Rd. (2400); thence in a northwesterly direction to a point (14) on Irish Potato Road (2400) about 0.2 mile north of its intersection with Sapp Rd. (2402); thence directly north to a point on the Cabarrus-Rowan County line; thence in an easterly direction with the county line to the point of beginning.

Sec. 18. Boundaries of Kannapolis Rural Fire District.

Editor's note—Per county's instruction, art. III, § 13, has been incorporated into chapter 34 as § 34-1.

Sec. 19. Area within corporate limits of Kannapolis removed from fire district.

Notwithstanding the provisions of sections 4, 10, and 18 of this act, or chapter 69 of the General Statutes, the area within the corporate limits of the City of Kannapolis is removed from any fire district.

Sec. 19.1. [Allowing Cabarrus County to change the boundaries of fire districts.]

(a) The Board of Commissioners may, effective the first day of July after the adoption of an ordinance, change the boundaries of a fire district in Cabarrus County established by this act, if:

- (1) It first holds a public hearing on that ordinance, with notice published at least 14 days before the hearing.
- (2) Makes available in the office of the Clerk to the Board of Commissioners a map showing the proposed changes.
- (3) No area will be in more than one fire district.
- (4) No area shall be within the corporate limits of a municipality (except for any area within the corporate limits of a municipality that is already within a fire district under this act).

(b) Any action taken by motion rather than ordinance under subsection (a) of this section between May 10, 2006 and the effective date of this subsection is not invalid on account of the use of a motion, as long as the motion was reflected in the minutes of the Board of Commissioners.

This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of June, 2010. (S.L. 2006-1, 5-10-06; S.L. 2010-17, 6-23-10)

Sec. 20. Effective date.

This act shall become effective June 30, 1988.

In the General Assembly read three times and ratified this the sixth day of July, 1987.

ARTICLE IV. ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX; TOURISM AUTHORITY*

Sec. 1. Occupancy Tax Levy.

(a) *Authorization and scope.* The Cabarrus County Board of Commissioners may levy a room occupancy tax of not less than three percent nor

***Editor's note**—Printed in this article is Chapter 658 of the Sessions Laws of 1989 and act authorizing Cabarrus County to levy a room occupancy and tourism development tax and establishing a tourism authority. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the

more than six percent of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the state under G.S. 105-164.4(a)(3). This tax is in addition to any state or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, education, or religious organizations.

(b) *Administration.* A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

(c) *Use and disposition of revenue.* Cabarrus County shall remit 100 percent of the net proceeds of the occupancy tax to the Cabarrus County Tourism Authority established under section 2 of this act. As used in this act "net proceeds" means gross proceeds less the direct cost to the county of administering and collecting the tax, not to exceed five percent of the amount collected. The authority may expend occupancy tax revenue remitted to it by the county during a fiscal year, and any other revenue it receives, only to develop or promote tourism, tourist-related support services and facilities, tourist-related events, tourist-related activities, or tourist attractions. The Cabarrus County Finance Officer shall distribute the amounts due the authority at least monthly.

Sec. 2. Establishment, appointment, and duties of Cabarrus County Tourism Authority.

(a) *Establishment and membership.* The Cabarrus County Tourism Authority is composed of 12 members, with seats on the Authority numbered one through 12, all of whom shall be appointed by the Cabarrus County Board of Commissioners, selected as follows:

- (1) Seats 1, 4, and 7 shall be selected by the board at large and shall include, but not

style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation.

Code reference—Room occupancy and tourism development tax, § 70-31 et seq.

be limited to, at least one member of the board or the Cabarrus County Manager and shall include one hotelier.

- (2) Seats 2, 5, and 8 shall be appointed by the board from a list of persons submitted by the Cabarrus County Tourism Authority and shall include one hotelier and at least one person currently active in the promotion of tourism in the county.
- (3) Seats 3, 6, and 9 shall be appointed by the board from a list of persons submitted to the board by the Cabarrus Regional Chamber of Commerce and shall include one hotelier.
- (4) Seats 10, 11, and 12 shall be appointed by the board from a list of persons submitted to the board by the Cabarrus County Tourism Authority and shall include one hotelier and at least one person currently active in the promotion of tourism in the county.

(b) *Terms of office.* Except as otherwise provided in the schedule set forth below, the term of office of each member of the authority shall be three years. The terms shall be staggered so that after the initial members of the authority are appointed, four members are appointed each year, implemented as follows:

- (1) Seats 1, 2, 3, and 10 shall be appointed initially for one year, and thereafter for three years.
- (2) Seats 4, 5, 6, and 11 shall be appointed initially for two years, and thereafter for three years.
- (3) Seats 7, 8, 9, and 12 shall be appointed initially for three years, and thereafter for three years.

(b1) When any vacancy occurs, the organization responsible for nominating members for full terms for the vacant seat shall submit a recommendation to the Cabarrus County Board of Commissioners.

(c) *Powers and duties of the authority.* In addition to any other powers and duties of the authority otherwise conferred by law, the authority may contract with any person, firm, corporation, or

agency to assist it in the promotion of travel and tourism and to carry out the purposes identified in section 1(e) of this act. The authority may accept contributions from any source to be used for the purposes stated in section (1)(e) of this act. On or before April 1 of each year after the levy of the tax authorized in this act, the authority shall prepare an annual budget based upon anticipated revenues and shall submit the budget to the Cabarrus County Manager for processing and approval through the regular budget procedure of the county. The authority shall make quarterly reports to the board detailing its revenues, expenditures, and activities. The county may audit the authority's financial records upon reasonable notice to the authority.

(S.L. 2010-79, 7-9-10)

This act is effective when it becomes law. In the General Assembly read three times and ratified this the 9th day of July, 2010.

Sec. 3. Effective date.

This act is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of October, 2001.
(Acts 2000, Ch. 176, § 1; Acts 2001, Ch. 439, § 17)

ARTICLE V. POPLAR TENT BEAUTIFICATION DISTRICT*

Sec. 1. Election authorized.

The Cabarrus County Board of Commissioners may call an election in the Poplar Tent Beautification District, described in section 2 of this act, to submit to the voters in the district the single issue of establishing the Poplar Tent Beautification District and authorizing the annual levy and collection of a special ad valorem tax on all taxable property in the district to beautify the district and protect the citizens of the district by

***Editor's note**—Printed in this article is Chapter 685 of the Session Laws of 1991, an act establishing the Poplar Tent Beautification District. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation.

Cross reference—Boundaries of Poplar Tent Fire District, pt. I, art. III, § 15.

developing and implementing a beautification plan providing for the installation of underground utility lines and facilities, development of buffering, landscaping, design and other appearance requirements, and other beautification or infrastructure improvement projects, including sidewalks, bike paths, and greenways, all implementation of the plan to be funded with tax revenue collected by the district. The Cabarrus County Board of Elections shall conduct the election in accordance with G.S. 163-1 et seq., and shall certify the results of the election to the Cabarrus County Board of Commissioners.

Sec. 2. Description of district.

The Poplar Tent Beautification District consists of the following described property:

Lying and being in Townships 2 and 3, Cabarrus County, North Carolina, including, the subdivisions known as Beech Bluff, Cox's Mill, Freedom Acres, Poplar Trails, Quail Hollow Park, Tay-Mor, Twin Creeks, and others, and more particularly described as follows:

Beginning at the intersection of Harris Road and Odell School Road; thence in a southerly direction with Odell School Road to Untz Road; thence in an easterly direction with Untz Road continuing in an easterly direction to Coddle Creek; thence in a southerly direction with the center of Coddle Creek to the southeastern corner of Tax Parcel Number 5509-19-8530; thence in a generally westerly direction with the eastern boundary of Tax Parcel Number 5509-18-1553 and the southern boundary of Tax Parcel Number 5509-18-1553 to the intersection of Plantation Road; thence in a southerly direction with the centerline of Plantation Road to its intersection with Pitts School Road; thence in a northerly direction with the centerline of Pitts School Road approximately 3290 feet to the northeast corner of Tax Parcel Number 4599-67-1383; thence with the southern, western and northern boundary of Tax Parcel Number 4599-67-1383 (including the parcel) to the center of Pitts School Road and its intersection with Weddington Road; thence in an easterly direction with the centerline of Weddington Road to the northeastern corner of Tax Parcel Number 4599-69-5609; thence with the

northern and western boundary of Tax Parcel Number 4599-69-5609 (excluding the parcel), back to and crossing Pitts School Road to a point 500 feet southwest of the centerline of Pitts School Road; thence in a northerly direction along a line 500 feet west of and parallel to Pitts School Road to the intersection of Pitts School Road with Poplar Tent Road; thence in a northwesterly direction with the centerline of Poplar Tent Road to the intersection of Poplar Tent Road and Derita Road; thence in a westerly direction with the centerline of Derita Road to the northern boundary of Tax Parcel Number 4680-95-1610; thence in a westerly direction with the northern and eastern boundary of Tax Parcel Number 4680-95-1610 (including the parcel) to the boundary of Tax Parcel Number 4680-95-5394; thence with the northern boundary of Tax Parcel Number 4680-95-5394 (excluding the parcel) and the eastern boundary and southern boundaries of the Twin Creeks Subdivision (including the subdivision) to the centerline of Derita Road; thence in a northerly and westerly direction with the southern boundary of Tax Parcel Number 4680-73-1581 (including the parcel) to the center of Rocky River; thence continuing in a northerly direction with the center of Rocky River to its intersection with Harris Road; thence in an easterly direction with the centerline of Harris Road to its intersection with Odell School Road, the point of beginning.

Sec. 3. Ballot.

The Cabarrus County Board of Elections shall prepare ballots in the following form for an election called under section 1 of this act:

"[] FOR creation of the Poplar Tent Beautification District and the levy of an ad valorem tax, not to exceed five cents for each \$100.00 taxable valuation, to beautify the district and protect the citizens of the district by developing and implementing a beautification plan providing for the installation of underground utility lines and facilities, development of buffering, landscaping, design and other appearance requirements, and other beautification or infrastructure improvement projects, including sidewalks, bike paths, and greenways, all implementation of the plan to be funded with tax revenue collected by the district.

[] AGAINST creation of the Poplar Tent Beautification District and the levy of an ad valorem tax, not to exceed five cents for each \$100.00 taxable valuation, to beautify the district and protect the citizens of the district by developing and implementing a beautification plan providing for the installation of underground utility lines and facilities, development of buffering, landscaping, design and other appearance requirements, and other beautification or infrastructure improvement projects, including sidewalks, bike paths, and greenways, all implementation of the plan to be funded with tax revenue collected by the district."

City of Concord or Cabarrus County planning and zoning departments, or may consult with staff and use available resources within those departments. The Cabarrus County Board of Commissioners shall serve, ex officio, as the governing body of the district, and the officers of the board of county commissioners shall likewise serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

Sec. 4. District established; tax levy.

If a majority of the qualified voters voting in an election called under section 1 of this act vote in favor of creating the Poplar Tent Beautification District and authorizing the levy and collection of an ad valorem tax in the district, the Cabarrus County Board of Commissioners shall, upon receipt of a certified copy of the election results, adopt a resolution creating the Poplar Tent Beautification District and shall file a copy of the resolution with the clerk of the superior court of Cabarrus County. Upon establishing the Poplar Tent Beautification District, the Cabarrus County Board of Commissioners may annually levy an ad valorem tax on all taxable property in the district in an amount the board considers necessary to develop and implement the beautification plan and projects described in section 1 of this act, that amount not to exceed five cents for each \$100.00 taxable valuation of property. The proceeds of this tax shall be used only to develop and implement the beautification plan and projects described in section 1 of this act.

Sec. 5. Nature of district; governing body.

If created, the Poplar Tent Beautification District shall be a body politic and corporate and may provide for the beautification of the district and protection of the citizens of the district by developing and implementing the beautification plan and projects described in section 1 of this act, and may do all acts reasonably necessary to fulfill this purpose. The governing body of the district may develop the beautification plan jointly with the

Sec. 6. Comprehensive land use plan; advisory committee.

(a) If the Poplar Tent Beautification District is created as provided in sections 1 through 5 of this act, the governing body of the district, at its first meeting, shall appoint an advisory commission as provided in this section, for the purpose of developing a comprehensive land use plan to be applied within the district boundaries described in section 2 of this act. The purpose of the comprehensive land use plan is to identify appropriate land uses and to provide stability within the district with respect to future changes in land use. The advisory commission shall consist of seven members: three members selected by the City of Concord Board of Aldermen, three members selected by the Cabarrus County Board of Commissioners, and one member selected by the other six members of the advisory commission. Of the three members selected respectively by the city and the county, one shall be an elected official and may be a member of the respective governing board, and the other two shall not be elected officials but shall either reside or own property in the Poplar Tent Beautification District. The advisory commission shall appoint a chairman from among its members, and the chairman shall vote only in case of a tie.

(b) The advisory commission shall hold public hearings, solicit comments and recommendations for appropriate present and future land use within the Poplar Tent Beautification District, and shall develop a comprehensive land use plan designating appropriate land uses for the district. After adoption of a plan by a majority of the members of the advisory commission, the plan shall be submitted to the Cabarrus County Board of Commissioners, and to the governing board of any municipality that is located entirely or partially within the district, or that exercises zoning jurisdiction within the district. Upon submission of the plan to the governing bodies as set forth in this subsection, those bodies may (i) adopt the plan, (ii) refer the plan back to the advisory commission with requested revisions, or (iii) take no action on the plan; provided that in order for the plan to become effective within the entire district, an identical plan must be adopted by each of the local governments exercising zoning jurisdiction within

the district. If an identical plan is adopted by each of those jurisdictions, the plan shall have the effect of a comprehensive plan in the district and all land use within each jurisdiction within the district shall be consistent with the comprehensive plan. After adoption under this section, the comprehensive land use plan developed under this section shall not be changed or repealed except upon a vote in favor of the specific change or repeal by a majority of each of the governing bodies of the jurisdictions that adopted the plan.

Sec. 7. [Applicability of chapter 233 of 1987 session laws.]

Section 3 of Chapter 233 of the 1987 Session Laws reads as rewritten:

“Sec. 3. This act shall apply only to Orange County and Cabarrus County and to municipalities located within those counties.”

Sec. 8. [Condemned property.]

Section 1 of Chapter 269 of the 1985 Session Laws reads as rewritten:

Section 1. G.S. 40A-10 is rewritten to read:

“§ 40A-10. Sale or other disposition of land condemned. When any property condemned by a condemnor is no longer needed for the purpose for which it was condemned, it may be used for any other public purpose or it may be sold or disposed of in the following manner: The property shall be offered for a reasonable time, and may be sold by private sale as set forth in G.S. 160A-267, to the prior owner of the property, or his heirs, successors, or assigns, provided not more than ten years have lapsed since the property was purchased, at the price paid for the property whether arrived at through negotiation or judgment including the reasonable value of any improvements made on the property, and if this party shall refuse to purchase the property, then it may be sold or disposed of in the manner prescribed by law for the sale and disposition of surplus property.”

Cross reference—Offer of condemned land to original owner, pt. I, art. II.

Sec. 9. [Effective date of certain regulations during annexation.]

G.S. 160A-360(f) and (f1) read as rewritten:

“(f) When a city annexes, or a new city is incorporated in, or a city extends its jurisdiction to include, an area that is currently being regulated by the county, the county regulations and powers of enforcement shall remain in effect until (i) the city has adopted such regulations, or (ii) a period of 120 days has elapsed following the annexation, extension or incorporation, whichever is sooner. During this period the city may hold hearings and take any other measures that may be required in order to adopt its regulations for the area.

(f1) When a city relinquishes jurisdiction over an area that it is regulating under this article to a county, the city regulations and powers of enforcement shall remain in effect until (i) the county has adopted this regulation or (ii) a period of 120 days has elapsed following the action by which the city relinquished jurisdiction, whichever is sooner. During this period the county may hold hearings and take other measures that may be required in order to adopt its regulations for the area.”

Sec. 10. [Applicability of sections 7, 8 and 9 of the act.]

Sections 7, 8 and 9 of this act apply only to Cabarrus County and to any incorporated municipality partly or wholly located in Cabarrus County.

Sec. 11. [Revision of fire district boundaries.]

The boundaries of the Odell Fire District in Cabarrus County, and of the P.S.R. (PSR) Fire District in Cabarrus County, as established in sections 13 and 14 of chapter 558 of the 1987 session laws, are revised by transferring to the Odell Fire District and by deleting from the PSR Fire District, all of the area within the PSR Fire District that is (i) located North of Interstate 85, and (ii)

not within the corporate limits of the City of Concord.

Cross reference—Boundaries of Odell Fire District and P.S.R. Fire District, pt. I, art. III, §§ 13, 14.

Sec. 12. [Effective date.]

Section 11 of this act becomes effective October 1, 1991. The remainder of this act is effective upon ratification. Section 6 of this act expires on December 31, 1993, if no comprehensive plan has been adopted before that date by a majority of the advisory commission as provided in that section.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

ARTICLE VI. LEASE OR SALE OF BOARD OF EDUCATION PROPERTY TO BOARD OF COMMISSIONERS*

Sec. 1. Applicability of chapter 885 of session laws of 1989.

Section 2 of Chapter 885 of the 1989 Session Laws, as amended by Chapters 120 and 533 of the 1991 Session Laws, reads as rewritten:

“Sec. 2. This act applies only to Bladen, Cabarrus, Columbus, Pender, Richmond, Rowan, Sampson, and Stanly Counties.”

Sec. 2. Authority of board of education to lease or sell property to board of commissioners.

Notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274, a local board of education may lease or sell any of its property to the board of commissioners of the county in which the property is located for any price negotiated between the two boards.

***Editor's note**—Printed in this article is Chapter 848 of the Sessions Laws of 1992, an act authorizing a local board of education to lease or sell any of its property to the board of commissioners. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines have been added by the editor to facilitate indexing.

Sec. 3. Applicability of section 2.

Section 2 of this act applies only to Cabarrus, Rowan, and Stanly Counties and to local boards of education for school administrative units in or for Cabarrus, Rowan, and Stanly Counties. Section 2 of this act applies only to sales and leases of property in connection with additions, improvements, renovations, or repairs to the property or to some part of the property.

Sec. 4. Effective date.

This act is effective upon ratification.

In the General Assembly read three times and ratified this the sixth day of July, 1992.

ARTICLE VII. CENTERFIRE RIFLES***Sec. 1. Discharging centerfire rifles; hunting deer with centerfire rifles.**

Section 1 of Chapter 324 of the 1981 Session Laws reads as rewritten:

"Section 1. (a) It is unlawful to discharge a centerfire rifle on the property of another in Cabarrus County without having in one's possession the written permission of the landowner or lessee.

(b) It is unlawful to take deer with centerfire rifles in Cabarrus County, except from a permanent or portable stationary stand at least 9 feet above ground level and with the written permission of the landowner or lessee in one's possession."

Sec. 2. Applicability of act.

This act applies only to Cabarrus County.

***Editor's note**—Printed in this article is Chapter 100 of the Sessions Laws of 1993, an act requiring a permit to discharge a centerfire rifle and permitting deer hunting with centerfire rifles from stationary stands with the written permission of the landowner or lessee. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines have been added by the editor to facilitate indexing.

Code reference—Use of firearms generally, § 46-2.

Sec. 3. Effective date.

This act is effective upon ratification.

In the General Assembly read three times and ratified this the first day of June, 1993.

ARTICLE VIII. DELEGATION OF REZONING AUTHORITY†**Sec. 1. Authority of city council to delegate rezoning authority to designated planning agency.**

A city council may, by ordinance, delegate or assign to the designated planning agency the authority to take final action on applications to rezone property in the city's zoning jurisdiction. The designated planning agency shall have such authority only if and when the approval or denial of a rezoning application is by vote of at least three-fourths of the members of the planning agency present and not excused from voting and no appeal of this decision is made. If an approval or denial is by a vote of less than three-fourths of the members of the planning agency or if an appeal is taken, then the city council shall have the authority to make final decisions on rezoning applications. Any person aggrieved by the recommendation of the designated planning agency shall have the right to appeal the action of the planning agency to the city council by giving notice in writing to the city manager within 15 days of the action of the planning agency. In the case of an appeal, the city council shall hear the application de novo. The city council may, by ordinance, rescind any and all authority so delegated or assigned to the designated planning agency at any time that the city council deems it advisable or appropriate to do so. Any authority so delegated shall be exercised by the planning agency under

†Editor's note—Printed in this article is Chapter 247 of the Sessions Laws of 1993, an act authorizing certain cities and counties to delegate rezoning authority to a designated planning agency. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines have been added by the editor to facilitate indexing.

such rules, regulations, and guidelines as may be established by the city council.

Sec. 2. Authority of board of county commissioners to delegate rezoning authority to designated planning agency.

A board of county commissioners may, by ordinance, delegate or assign to the designated planning agency the authority to take final action on applications to rezone property in the county's zoning jurisdiction. The designated planning agency shall have such authority only if and when the approval or denial of a rezoning application is by vote of at least three-fourths of the members of the planning agency present and not excused from voting and no appeal of this decision is made. If an approval or denial is by a vote of less than three-fourths of the members of the planning agency or if an appeal is taken, then the county commissioners shall have the authority to make final decisions on rezoning applications. Any person aggrieved by the recommendation of the designated planning agency shall have the right to appeal the action of the planning agency to the county commissioners by giving notice in writing to the county manager within 15 days of the action of the planning agency. In the case of an appeal, the board of county commissioners shall hear the application de novo. The board of county commissioners may, by ordinance, rescind any and all authority so delegated or assigned to the designated planning agency at any time that the county commissioners deem it advisable or appropriate to do so. Any authority so delegated shall be exercised by the planning agency under such rules, regulations, and guidelines as may be established by the county commissioners.

Sec. 3. Applicability of sections 1 and 2.

Section 1 of this act applies only to the City of Gastonia and municipalities located wholly or partly within Cabarrus County. Section 2 of this act applies only to Cabarrus County.

Sec. 4. Effective date.

This act is effective upon ratification.

In the General Assembly read three times and ratified this the 30th day of June, 1993.

ARTICLE IX. THOROUGHFARE PLAN IMPLEMENTATION*

Sec. 1. Authority of county to acquire land for transportation improvements.

A county may expend funds, not otherwise limited as to use by law, and may exercise the power of eminent domain, following procedures authorized to counties by general law, for the purpose of acquiring land or rights-of-way for thoroughfare construction and improvement projects which have been included in:

- (1) A department of transportation annual construction program or a multiyear transportation improvement program;
- (2) A roadway corridor official map adopted by the board of transportation or a municipal governing board;
- (3) A comprehensive street system plan, collector street plan, or thoroughfare plan adopted by local governments or their planning agencies; or
- (4) A transportation improvement plan adopted by a metropolitan planning organization.

Sec. 2. Donations and dedications of land.

A county may accept donations and dedications of land or rights-of-way for the construction and improvement of streets, highways, or other thoroughfares included in the official plans and programs listed in section 1 of this act.

Sec. 3. Agreements with municipal governments.

A county may, pursuant to the authority of G.S. 160A-461, for interlocal undertakings, enter into agreements with municipal governments in the county to provide funding assistance to them for

***Editor's note**—Printed in this article is Chapter 478 of the Sessions Laws of 1993, an act authorizing various counties to assist thoroughfare plan implementation. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines have been added by the editor to facilitate indexing.

the purpose of acquiring land or rights-of-way for the design, construction, or improvement of streets, highways, or other thoroughfares included in the official plans or programs listed in section 1 of this act.

Sec. 4. Transferral of land to governmental agency carrying out construction.

Any land or rights-of-way acquired by a county, pursuant to this act, shall, prior to use for street, highway, or thoroughfare construction or improvement, be transferred to the governmental agency (department of transportation or municipality) which is carrying out the construction or improvement.

Sec. 5. Construction of act.

Nothing in this act shall be construed to authorize a county to undertake actual construction or improvement of streets, highways, or thoroughfares.

Sec. 5.1. Applicability of act.

This act applies only to Burke, Cabarrus, and Mecklenburg Counties.

Sec. 6. Effective date.

This act is effective upon ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

ARTICLE X. EXPEDITING OF PUBLIC SCHOOL FACILITIES*

Sec. 1. [Authority to select and negotiate with separate-prime school building contractors.]

Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, the Board of

***Editor's note**—Printed in this article is an act authorizing the Board of County Commissioners of Cabarrus County and the Cabarrus County Board of Education to jointly select and negotiate with separate-prime contractors to build school buildings. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines have been added by the editor to facilitate indexing.

Commissioners of Cabarrus County and the Cabarrus County Board of Education may jointly select and negotiate with separate-prime contractors to build school buildings using the repetitive design approach if the Board of Commissioners of Cabarrus County and the Cabarrus County Board of Education jointly determine that using the selection and negotiations processes instead of competitive bidding will expedite the project, create an effective construction team, and control costs, quality, and schedule.

Sec. 2. [Applicability of act.]

This act shall apply to construction of up to five schools.

Sec. 3. [Effective date.]

This act is effective when it becomes law and expires on June 30, 2005.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

ARTICLE XI. AUTHORITY TO ALLOW A DESIGN-BUILD CONSTRUCTION METHOD FOR A CONVENTION CENTER†

Sec. 1. [Authority to use design-build or request-for-proposal method.]

Notwithstanding the provisions of Chapter 143 of the General Statutes, the City of Concord, the County of Cabarrus, or both, may construct a convention center using the design-build or request-for-proposal method.

Sec. 2. [Leasing of adjacent property.]

In leasing property adjacent to or on the convention center property for a hotel and auxiliary purposes, as to the City of Concord, G.S. 160A-

†Editor's note—Printed in this article is an act authorizing the County of Cabarrus to allow a design-build construction method for a convention center. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines have been added by the editor to facilitate indexing.

272, as amended by Chapter 355 of the 1985 Session Laws, shall be applied by deleting "20 years" and substituting "49 years".

Sec. 3. [Effective date.]

This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

ARTICLE XII. TO AUTHORIZE THE APPOINTMENT OF A SPECIAL BOARD OF EQUALIZATION AND REVIEW FOR CABARRUS COUNTY*

Sec. 1. [Powers and duties.]

G.S. 105-322(g) reads as rewritten:

"(g) Powers and Duties. - The board of equalization and review has the following powers and duties:

(3) Powers in Carrying Out Duties. In the performance of its duties under subdivisions (g)(1) and (g)(2), above, the board of equalization and review may exercise the following powers:

- a. It may appoint committees composed of its own members or other persons to assist it in making investigations necessary to its work. It may also employ expert appraisers in its discretion. The expense of the employment of committees or appraisers shall be borne by the county. The board may, in its discretion, require the taxpayer to reimburse the county for the cost of any appraisal by experts demanded by the taxpayer if

***Editor's note**—Printed in this article is an act [Session Law 2004-100] authorizing the County of Cabarrus to appoint a Special board of Equalization and Review; specifying powers and duties. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines have been added by the editor to facilitate indexing. Former Art. XII pertained to similar subject matter and derived from S.L. 2000-92.

the appraisal does not result in material reduction of the valuation of the property appraised and if the appraisal is not subsequently reduced materially by the board or by the Department of Revenue.

- b. The board, in its discretion, may examine any witnesses and documents. It may place any witnesses under oath administered by any member of the board. It may subpoena witnesses or documents on its own motion, and it must do so when a request is made under the provisions of subdivision (g)(2)c, above.

A subpoena issued by the board shall be signed by the chair of the board, directed to the witness or to the person having custody of the document, and served by an officer authorized to serve subpoenas. Any person who willfully fails to appear or to produce documents in response to a subpoena or to testify when appearing in response to a subpoena shall be guilty of a Class 1 misdemeanor.

- c. In any year of general reappraisal, the chair of the board may divide the board into two or more separate panels with a minimum of three members each. The board members on each panel may be interchanged during the year. A decision by the panel has the same effect as a decision by the entire board.

(5) *Powers After Adjournment.* Following adjournment upon completion of its duties under subdivisions (g)(1) and (g)(2) of this section, the board may continue to meet to carry out the following duties:

- a. To hear and decide all appeals relating to discovered property under G.S. 105-312.
- b. To hear and decide all appeals relating to the appraisal, situs, and taxability of classified motor vehicles under G.S. 105-330.2(b).

- c. To hear and decide all appeals relating to audits conducted under G.S. 105-296(j) and relating to audits conducted under G.S. 105-296(j) and (l) of property classified at present-use value and property exempted or excluded from taxation.
- d. To hear and decide all appeals relating to personal property under G.S. 105-317.1(c).
- e. To exercise its authority under G.S. 105-282.1(a1) to accept an application for exemption or exclusion that was filed after the statutory deadline.
- f. To make any changes authorized by G.S. 105-325."

Sec. 2. [Repeal.]

S.L. 2000-92 is repealed.

Sec. 3. [Applicability.]

This act applies to Cabarrus County only.

Sec. 4. {Effective date.}

This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of July, 2004.

**ARTICLE XIII. AUTHORITY FOR
ADDITIONAL VOLUNTARY MUNICIPAL
PARTICIPATION IN ROAD
CONSTRUCTION***

Sec. 1. [G.S. 136-66.3 amended.]

G.S. 136-66.3 reads as rewritten:

"Section 136-66.3. Municipal participation in improvements to the State highway system.

- (a) *Municipal participation authorized.* A municipality may, but is not required to,

participate in the right-of-way and construction cost of a state highway improvement approved by the board of transportation under G.S. 143B-350(f)(4) that is located in the municipality or its extraterritorial jurisdiction.

- (b) *Process for initiating participation.* A municipality interested in participating in the funding of a state highway improvement project may submit a proposal to the department of transportation. The department and the municipality shall include their respective responsibilities for a proposed municipal participation project in any agreement reached concerning participation.

- (c) *Type of participation authorized.* A municipality is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the state highway system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that purpose. All improvements to the state highway system shall be done in accordance with the specifications and requirements of the department of transportation.

***Editor's note**—Printed in this article is an act authorizing additional voluntary municipal participation in road construction. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines have been added by the editor to facilitate indexing.

- (c1) *No TIP disadvantage for participation.* If a municipality participates in a state highway system improvement project, as authorized by this section, the department shall ensure that the municipality's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4) and located outside the municipality.
- (c2) *Distribution of state funds made available by municipal participation.* Any state or federal funds allocated to a project that are made available by municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.
- (c3) *Limitation on agreements.* The department shall not enter into any agreement with a municipality to provide additional total funding for highway construction in the municipality in exchange for municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).
- (d) *Authorization to participate in development-related improvements.* When in the review and approval by a municipality of plans for the development of property abutting the state highway system it is determined by the municipality that improvements to the state highway system are necessary to provide for the safe and orderly movement of traffic, the municipality is authorized to construct, or have constructed, said improvements to the state highway system in vicinity of the development. For purposes of this section, improvements include but are not limited to additional travel lanes, turn lanes, curb and gutter, and drainage facilities. All improvements to the state highway system shall be constructed in accordance with the specifications and requirements of the department of transportation and be approved by the department of transportation.
- (e) *Authorization to participate in project additions.* Pursuant to an agreement with the department of transportation, a municipality may reimburse the department of transportation for the cost of all improvements, including additional right-of-way, for a street or highway improvement projects approved by the board of transportation under G.S. 143B-350(f)(4), that are in addition to those improvements that the department of transportation would normally include in the project.
- (e1) *Reimbursement procedure.* Upon request of the municipality, the department of transportation shall allow the municipality a period of not less than three years from the date construction of the project is initiated to reimburse the department their agreed upon share of the costs necessary for the project. The department of transportation shall not charge a municipality any interest during the initial three years.
- (f) *Report to General Assembly.* The department shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between municipalities and the department of transportation. The report shall state in summary form the contents of such agreements.
- (g) *Municipal acquisition of rights-of-way.* In the acquisition of rights-of-way for any state highway system street or highway in or around a municipality, the municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the department of transportation in this chapter. In the acquisition of such rights-of-way, municipalities may use the procedures provided in Article IX of this Chapter, and wherever the words "Department of Transportation" appear in Article IX they shall be deemed to include "municipality" or "municipal governing body," and wherever the words

"Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article IX they shall be deemed to include "municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article IX of this Chapter are in conflict with the provisions of any local act or any other provision of any general statute, then the governing body of the municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article IX of this Chapter.

- (h) *Department authority concerning rights-of-way.* In the absence of an agreement, the department of transportation shall retain authority to pay the full cost of acquiring rights-of-way where the proposed project is deemed important to a coordinated state highway system.
- (i) *Changes to municipal participation agreement.* Either the municipality or the department of transportation may at any time propose changes in the agreement setting forth their respective responsibilities by giving notice to the other party, but no change shall be effective until it is adopted by both the municipal governing body and the department of transportation.
- (j) *Municipality party to rights-of-way proceeding.* Any municipality that agrees to contribute any part of the cost of acquiring rights-of-way for any state highway system street or highway shall be a proper party in any proceeding in court relating to the acquisition of such rights-of-way.

- (k) *Specified county participation.* In addition to the authority given to Burke, Cabarrus, and Mecklenburg Counties by Chapter 478 of the 1993 Session Laws, these counties are authorized to participate in State highway improvement projects located anywhere in each respective county in accordance with this section."

Sec. 2. [Effective date.]

This act becomes effective July 1, 2000.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

ARTICLE XIV. AUTHORITY TO ALLOW A NEGOTIATED OFFER AND UPSET BID PROCESS FOR THE SALE OF CURRENT CABARRUS COUNTY SCHOOLS CENTRAL OFFICE AND FOR A DESIGN-BUILD CONSTRUCTION METHOD FOR THE CABARRUS SCHOOL CENTRAL OFFICE AND BUS FACILITY*

Sec. 1. [Approval; action(s) to be taken.]

Notwithstanding the provisions of Chapter 115C or Chapter 143 of the General Statutes, the Cabarrus County Board of Education, with the approval of the Board of Commissioners of Cabarrus County, may do either or both of the following:

- (1) Dispose of the current school central office property by a negotiated offer and upset bid method.
- (2) Construct a new school central office and bus facility by the design-build method.

***Editor's note**—Printed in this article is an act authorizing the Cabarrus County Board of Education to allow a negotiated offer and upset bid process for the sale of the current Cabarrus County Schools central office and for a design-build construction method for the Cabarrus School central office and bus facility. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines have been added by the editor to facilitate indexing.

Sec. 2. [Separability of actions.]

The actions under Section 1 of this act may be taken either separately or together in one proposal.

Sec. 3. [Effective date.]

This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of July, 2000.

**ARTICLE XV. AUTHORIZING THE
COUNTY OF CABARRUS TO USE
ELECTRONIC MEANS TO PROVIDE
PUBLIC NOTICE IN LIEU OF
PUBLICATION***

The General Assembly of North Carolina enacts:

Sec. 1. [Adoption.]

A county may adopt ordinances providing that legal notice of public hearings may be published through electronic means in lieu of publication in any newspaper. The publication may be on the county's internet site or by any other means. Ordinances adopted pursuant to this section shall not supersede any state law that requires notice by mail to certain classes of persons or the posting of signs on certain property, nor shall there be any alteration of the publication schedule required by state law.

Sec. 2. [Applicability.]

This act applies to Cabarrus County only.

Sec. 3. [effective date.]

This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of May, 2003.

***Editor's note**—Printed in this article is an act [Session Law 2003-81] authorizing the County of Cabarrus to use electronic means to provide public notice in lieu of publication. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines have been added by the editor to facilitate indexing.

**ARTICLE XVI. [SCHOOL ADEQUACY
REVIEW]†**

The General Assembly of North Carolina enacts:

Sec. 5. [Provision enforcement.]

Notwithstanding the provisions of Article 19 of Chapter 160A of the General Statutes, the County of Cabarrus or any municipality therein may enforce, within its jurisdiction, any provision of the school adequacy review performed under the Cabarrus County Subdivision Regulations, including approval of a method to address any inadequacy that may be identified as part of that review.

Sec. 6. [Effective date.]

This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2004.

**ARTICLE XVII. AN ACT CONCERNING
PUBLIC-PRIVATE REIMBURSEMENT
AGREEMENTS FOR INFRASTRUCTURE
DEVELOPMENT BY VARIOUS COUNTIES
AND MUNICIPALITIES‡**

The General Assembly of North Carolina enacts:

Sec. 1. [Agreements.]

A municipality or county may enter into reimbursement agreements with private developers

†**Editor's note**—Printed in this article is an act [Session Law 2004-39] authorizing the school adequacy review. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines have been added by the editor to facilitate indexing.

‡**Editor's note**—Printed in this article is an act [Session Law 2005-41] concerning public-private reimbursement agreements for infrastructure development by various counties and municipalities. A uniform system of headings, capitalization, citation to state statutes and the expression of numbers has been utilized to conform to the style used in the Code. Additions for clarity are indicated by brackets. Obvious misspellings have been corrected without notation. Section catchlines have been added by the editor to facilitate indexing.

and property owners for the design and construction of public infrastructure that is included on the municipality's or county's capital improvement plan and serves the developer or property owner. For the purpose of this act, public infrastructure includes, without limitation, water mains, sanitary sewer lines, lift stations, stormwater lines, streets, curb and gutter, sidewalks, traffic control devices, and other associated facilities.

Sec. 2. [Enactment of ordinances.]

A municipality or county shall enact ordinances setting forth procedures and terms under which such agreements may be approved.

Sec. 3. [Payment.]

A municipality or county may provide for such reimbursements to be paid from any lawful source.

Sec. 4. [Reimbursement.]

No reimbursement pursuant to an agreement authorized by this act shall be deemed to be construction subject to Article 8 of Chapter 143 of the General Statutes or to be deemed to be a violation or evasion of any provision of said Article. Notwithstanding the foregoing provisions of this section, a construction contract subject to a reimbursement agreement authorized by this act shall not be awarded by a developer or property owner who is a party to such reimbursement agreement without complying with the requirements of G.S. 143-129 and G.S. 143-128.2 relating to public advertising and bid opening requirements which would be applicable if the construction contract had been awarded by the municipality or county.

Sec. 5. [Definition.]

For the purpose of this act, "municipality" has the same meaning as "city" under G.S. 160A-1, and thus also includes a town or village.

Sec. 6. [Applicability.]

This act applies only to the Towns of Apex, Broadway, Cary, Goldston, Holly Springs, Pittsboro, and Siler City, to the City of Sanford, to all municipalities located wholly or partially within

Cabarrus County, and to Cabarrus, Chatham, Durham, and Lee Counties, but as to the Town of Broadway only applies as to municipal infrastructure located in Lee County.

Sec. 7. [Effective date.]

This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of May, 2005.

ARTICLE XVIII. AUTHORIZING SEVERAL ADDITIONAL COUNTIES TO USE A TAX CERTIFICATION PROCESS TO ASSIST IN THE COLLECTION OF DELINQUENT PROPERTY TAXES

The General Assembly of North Carolina enacts:

Sec. 1. [G.S. 161-31 amended.]

Section 161-31. Tax certification.

(a) Tax Certification. - The board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed transferring real property for registration unless the county tax collector has certified that no delinquent ad valorem county taxes, ad valorem municipal taxes, or other taxes with which the collector is charged are a lien on the property described in the deed. The county commissioners may describe the form the certification must take in its resolution.

(a1) Exception to Tax Certification. - If a board of county commissioners adopts a resolution pursuant to subsection (a) of this section, notwithstanding the resolution, the register of deeds shall accept without certification a deed submitted for registration under the supervision of a closing attorney and containing this statement on the deed:

"This instrument prepared by: _____, a licensed North Carolina attorney. Delinquent taxes, if

any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds."

- (b) **Applicability.** - This section applies only to Anson, Beaufort, Bertie, Cabarrus, Camden, Carteret, Cherokee, Chowan, Clay, Cleveland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Lee, Lenoir, Lincoln, Macon, Madison, Martin, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Stanly, Surry, Swain, Transylvania, Vance, Warren, Washington, Wilson, and Yadkin Counties."

(S.L. 2005-109, §§ 1, 2, 1-23-05; S.L. 2006-150, §§ 1, 2, 7-20-06)

Sec. 2. [Effective date.]

This act is effective when it becomes law. (S.L. 2005-109, § 3, 1-23-05; S.L. 2006-150, § 3, 7-20-06)

In the General Assembly read three times and ratified this the 23rd day of June, 2005.

In the General Assembly read three times and ratified this the 20th day of July, 2006.

**ARTICLE XIX. AUTHORIZE AN INCREASE
IN THE VEHICLE TAX IN
MUNICIPALITIES LOCATED WHOLLY OR
PARTLY IN CABARRUS COUNTY AND TO
EXTEND A MORATORIUM ON
ANNEXATIONS INTO THE COUNTY OF
CABARRUS BY MUNICIPALITIES
LOCATED PRIMARILY OUTSIDE THE
COUNTY**

The General Assembly of North Carolina enacts:

Sec. 1. [G.S. 20-97 amended.]

- (a) G.S. 20-97(b) reads as rewritten:

"(b) General Municipal Vehicle Tax. - Cities and towns may levy a tax of not more than

twenty dollars (\$20.00) per year upon any vehicle resident in the city or town. The proceeds of the tax may be used for any lawful purpose."

- (b) This section applies only to municipalities located wholly or partially in Cabarrus County. Any funds generated by a tax of over five dollars (\$5.00) under this section shall be placed into a separate fund for transportation uses within the municipality and shall not be expended for any other purpose.

(S.L. 2005-116, § 1, 6-28-05)

Sec. 2. [S.L. 2003-326 amended.]

Section 3 of S.L. 2003-326 reads as rewritten:

"SECTION 3. Section 1 of this act is effective when it becomes law and expires June 30, 2005. 2006. The remainder of this act is effective when it becomes law."

(S.L. 2005-116, § 2, 6-28-05)

Sec. 3. This act is effective when it becomes law.

(S.L. 2005-116, § 3, 6-28-05)

In the General Assembly read three times and ratified this the 28th day of June, 2005.

SPECIAL ACTS COMPARATIVE TABLE

This table gives the location of any special acts included in this volume and any amendments thereto.

Special Acts	Chapter	Section this Special Acts
1965	615	Art. I, §§ 1—3
1985	269	Art. II, §§ 1—3
1987	558	Art. III, §§ 1—20
1989	658	Art. IV, §§ 1—3
1991	685	Art. V, §§ 1—11
1992	848	Art. VI, §§ 1—4
1993	100	Art. VII, §§ 1—3
	247	Art. VIII, §§ 1—4
	478	Art. IX, §§ 1—6
1999	176	Art. IV, § 2(a)(2), (3)
2000	85	Art. X, §§ 1—3
2000	88	Art. XI, §§ 1—3
2000	92	Art. XII, §§ 1, 2
2000	188	Art. XIII, §§ 1, 2
2000	87	Art. XIV, §§ 1—3
2001	439	Art. IV, § 1
2003	81	Art. V
2004	39	Art. XVI
	100	Art. XII
2005	41	Art. XVII
2005-109	161	Art. XVIII, §§ 1, 2
2005-116	20	Art. XIX, §§ 1—3
2006-1	558	Art. III, § 19.1
2006-150	161	Art. XVIII, §§ 1, 2
2010-04(Ord.)		Dltd Art. III, § 4
		Art. III, §§ 13, 18
2010-17(S.L.)		Art. III, § 19.1
2010-79(S.L.)		Art. IV, § 2

PART II
CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

- | | |
|------------|---|
| Sec. 1-1. | Designation and citation of Code. |
| Sec. 1-2. | Rules of construction and definitions. |
| Sec. 1-3. | Provisions of Code considered continuations of existing ordinances. |
| Sec. 1-4. | Repeal, expiration and revival of ordinances. |
| Sec. 1-5. | Catchlines, history notes and references. |
| Sec. 1-6. | Severability. |
| Sec. 1-7. | General penalty. |
| Sec. 1-8. | Amendments or additions to Code. |
| Sec. 1-9. | Supplementation of Code. |
| Sec. 1-10. | Ordinances not affected by Code. |

Sec. 1-1. Designation and citation of Code.

The provisions in the following chapters and sections shall constitute and be designated as the "Code of Ordinances, Cabarrus County, North Carolina," and may be so cited. Such Code may also be cited as the Cabarrus County Code.

State law references—Authority of county to adopt and issue a code of its ordinances, G.S. 153A-49; pleading and proving county ordinances, G.S. 153A-50; general ordinance-making power, G.S. 153A-121; territorial jurisdiction of ordinances, G.S. 153A-122; authority not limited by enumeration of powers, G.S. 153A-124.

Sec. 1-2. Rules of construction and definitions.

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

Board, board of county commissioners, board of commissioners. The terms "board," "board of county commissioners" and "board of commissioners" mean the Board of Commissioners of Cabarrus County, North Carolina.

Bond. When a bond is required, an undertaking in writing shall be sufficient.

Code. The terms "the Code" and "this Code" mean the Code of Ordinances, Cabarrus County, North Carolina, as designated in section 1-1.

Computation of time. In computing any period of time prescribed or allowed by this Code, by order of court or by any applicable statute, including ordinances, orders or statutes respecting publication of notices, the day of the act, event, default or publication after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded

in the computation. A half holiday shall be considered as other days and not as a holiday.

State law reference—Computation of time, G.S. 1-593, 1A-1, Rule 6(a).

County. The terms "the county" and "this county" mean Cabarrus County, in the State of North Carolina.

Daytime, nighttime. Daytime is the period of time between sunrise and sunset, and nighttime is the period of time between sunset and sunrise.

Gender. Words importing the masculine, feminine or neuter gender include each of the other genders.

G.S. The designation "G.S." appearing in the text or in the state law references or other notes refers to the General Statutes of North Carolina, as amended.

Keeper, proprietor. The terms "keeper" and "proprietor" mean person, firm, association, corporation, club and partnership, whether acting by themselves or as a servant, agent or employee.

Month. The term "month" means a calendar month.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. Words used in the singular include the plural, and words used in the plural include the singular number.

Oath. The term "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 terms "affirm" and "affirmed" shall be equivalent to the terms "swear" and "sworn."

Officials, boards, commissions, departments. Whenever reference is made to officials, boards, commissions and departments by title only, they shall be deemed to refer to the officials, boards, commissions and departments of Cabarrus County.

Owner. The term “owner,” when applied to a building or land, includes 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.

Person. The term “person” includes a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Personal property. The term “personal property” includes every species of property except real property.

Preceding, following. The terms “preceding” and “following” mean next before and next after, respectively.

Property. The term “property” includes real and personal property.

Real property. The term “real property” includes lands, tenements and hereditaments.

Residence. The term “residence” means the place adopted by a person as his place of habitation and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his residence.

Right-of-way. Except with respect to vehicle and traffic regulations, the term “right-of-way” means land that is dedicated or otherwise legally established for public use.

Roadway. The term “roadway” means that portion of a street improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder. If a street includes two or more separate roadways, the term “roadway” refers to any such roadway separately but not to all such roadways collectively.

Shall, may. The term “shall” is mandatory and not merely directory; the term “may” is permissive.

Sidewalk. The term “sidewalk” means that portion of the street right-of-way which is improved and designated for the use of pedestrians.

Signature, subscription. The terms “signature” and “subscription” include a mark where a person cannot write.

State. The terms “the state” and “this state” mean the State of North Carolina.

Street, highway. The term “street” means the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms “highway” and “street” shall be used synonymously.

Tenant, occupant. The terms “tenant” and “occupant,” applied to a building or land, include any person who occupies the whole or part of such building or land, whether alone or with others.

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

Written, in writing. The terms “written” and “in writing” shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word “year” means 12 consecutive months.

State law reference—Similar provisions, G.S. 12-3, 20-4.01.

Sec. 1-3. Provisions of Code considered continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of prior county ordinances, shall be considered as continuations thereof and not as new enactments.

State law reference—Similar provisions applicable to state statutes, G.S. 153A-2.

Sec. 1-4. Repeal, expiration and revival of ordinances.

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

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

State law references—Repeal of statute not to affect actions, G.S. 12-2; affect of county government law on prior laws and actions taken pursuant to prior laws, G.S. 153A-2; construction of General Statutes, G.S. 164-1 et seq.

Sec. 1-5. Catchlines, history notes and references.

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

(b) The history notes appearing in parentheses after each section and the references and notes scattered throughout the Code are for the benefit of the user of the Code and shall have no legal effect.

Sec. 1-6. Severability.

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

Sec. 1-7. General penalty.

(a) Any person violating or failing, refusing or neglecting to comply with any provision or requirement of any section or subsection of this Code, or any ordinance of this county now in force or hereafter enacted, that is specifically designated as a misdemeanor and to which no specific

criminal penalty is affixed, shall be punished in accordance with G.S. 14-4 and shall be fined in an amount not to exceed \$500.00 for each offense.

(b) Any ordinance in this Code may be enforced by an appropriate legal remedy issuing from a court of competent jurisdiction. It shall not be a defense to the application of the county for equitable relief that there is an adequate remedy at law.

(c) Each day that any breach or violation of or any failure to comply with any provision or requirement of any section or subsection of this Code or any ordinance of this county now in force or hereafter enacted continues, or is allowed to continue, shall constitute a separate and distinct offense; but nothing contained in this section or this Code shall be construed to relieve, or shall have the effect of relieving, any offender of any fine, imprisonment or penalty for repeated violations on any one day of any ordinance now in force or hereafter enacted, or any section or subsection of this Code.

(d) The imposition of a penalty under the provisions of this Code shall not prevent the revocation or suspension of any license, franchise or permit issued or granted under this Code.

(e) If any violation of this Code is designated as a nuisance under the provisions of this Code, such nuisance may be summarily abated by the county in addition to the imposition of a fine or imprisonment.

(f) Any provision of this Code or other ordinance of the county may be enforced by any one or more of the remedies authorized by G.S. 153A-123.

(g) Any person violating or failing, refusing or neglecting to comply with any provision or requirement of any section or subsection of this Code, or any ordinance of this county now in force or hereafter enacted, to which no specific civil penalty is affixed, shall also be subject to a civil penalty of \$100.00 for each violation. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the county in a civil action in the nature of debt.

(Ord. No. 1998-03, 2-16-98; Ord. No. 2021-32, § 1, 12-20-21)

State law references—Violations of county ordinances deemed misdemeanors, G.S. 14-4, 153A-123; prescribing

alternate methods for enforcement of ordinances and authorizing the making of each day's continuing violation a separate offense; injunction, G.S. 1-485 et seq.

Sec. 1-8. Amendments or additions to Code.

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

(b) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, Cabarrus County, North Carolina, 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.

Sec. 1-9. Supplementation of Code.

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

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

(c) When preparing a supplement to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supple-

ment, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ through _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meanings of ordinance sections inserted in the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-10. Ordinances not affected by Code.

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

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for

the county or authorizing the issuance of any bonds of the county or any evidence of the county's indebtedness;

- (3) Any contract or obligation assumed by the county;
- (4) Any ordinance fixing the salary of any county officer or employee;
- (5) Any right or franchise granted by the county;
- (6) Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the county;
- (7) Any appropriation ordinance;
- (8) Any ordinance which by its own terms is effective for a stated or limited term;
- (9) Any ordinance providing for local improvements and assessing taxes therefor;
- (10) Any zoning ordinance;
- (11) Any ordinance regulating subdivisions or dedicating or accepting any subdivision plat;
- (12) Any ordinance related to social security and retirement benefits for county officers and employees;
- (13) Any ordinance levying or imposing taxes not included in this Code;
- (14) Any ordinance establishing or prescribing street grades;
- (15) Any personnel ordinance;
- (16) Any cable television ordinance;

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

State law references—Authority of board to omit ordinances of the types enumerated above from the Code, G.S. 153A-49; statutes not repealed by General Statutes, G.S. 164-7.

Chapter 2

ADMINISTRATION*

- Sec. 2-1. Use of electronic means to provide public notice.
- Sec. 2-2. Disposal of personal property owned by the county worth less than \$30,000.00.

***Editor's note**—Session Law 1998-62, adopted by the North Carolina General Assembly on July 27, 1998, repealed §§ 3 and 4 of Session Law 1997-452 which provided the authority of the Cabarrus County Board of Commissioners to enact provisions for a procedure of direct voting on issues by the people. Hence, §§ 2-21—2-27 relating to initiatives, referendums and direct voting on questions of public interest were effectively repealed in their entirety.

Sec. 2-1. Use of electronic means to provide public notice.

(a) Legal notice of public hearings for the County of Cabarrus may be published through electronic means in lieu of publication in a newspaper; and

(b) The types of hearings for which notices may be electronically published include, but are not limited to, those hearings required by law, such as those on the budget ordinance, bond ordinance, economic development purposes, or a zoning ordinance or amendments thereto; those hearings required in conjunction with the award of state and/or federal grants; or those hearings held on the board's own initiative to give interested citizens an opportunity to present their views on specific issues; and

(c) The electronic publication of the public hearing notices may be on the county's Internet site or any other means, including but not limited to, the local government cable television channel; and

(d) The notices published by electronic means shall state the subject, date, time and location of the public hearing and shall be posted a minimum of ten days prior to the public hearing, or other such publication schedule required by state law, and shall remain posted until the day after the close of the public hearing; and

(e) A printed copy of any notice published by electronic means, along with the method of publication and certification of the dates of publication, shall be included with the official record of the public hearing; and

(f) The use of electronic means to publish legal notices of public hearings shall not supersede any state law that requires notice by mail to certain classes of persons or the posting of signs on certain property.

(Ord. No. 2004-17, 8-16-04)

Cross reference—Authorizing the County of Cabarrus to use electronic means to provide public notice in lieu of publication, Pt. I, Art. XV.

Sec. 2-2. Disposal of personal property owned by the county worth less than \$30,000.00.

(a) *In general.* The county manager may dispose of any surplus personal property owned by Cabarrus County, whenever he or she determines that:

- (1) The item or group of items has a fair market value of less than \$30,000.00;
- (2) The property is no longer necessary for the conduct of public business; and
- (3) Sound property management principles and financial considerations indicate that the interests of Cabarrus County would best be served by disposing of the property.

(b) *Method of disposal.* The county manager may dispose of any such surplus personal property by any means which he or she judges reasonably calculated to yield the highest attainable sale price in money or other consideration, including but not limited to the methods of sale provided in Article 12 of N.C. Gen. Stat. Chapter 160A. Such sale may be public or private, and with or without notice and minimum waiting period .

(c) *Pricing.* The county manager shall sell the surplus property to the party who tenders the highest offer, or exchanged for any property or services useful to Cabarrus County if greater value may be obtained in that manner, and the county manager may execute and deliver any applicable title documents. If no offers are received within a reasonable time, the county manager may retain the property , obtain any reasonably available salvage value, or cause it to be discarded. No surplus property may be donated to any individual or organization except by resolution of the Cabarrus County Board of Commissioners.

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

(Ord. No. 2021-30, 10-18-21)

Chapters 3–5

RESERVED

Chapter 6

AMUSEMENTS AND ENTERTAINMENTS*

Article I. In General

Secs. 6-1—6-25. Reserved.

Article II. Pool and Billiard Rooms

- Sec. 6-26. Reserved.
- Sec. 6-27. Restrictions for ten or more tables for rent or hire.
- Sec. 6-28. Hours and days of operation.
- Sec. 6-29. Gambling.
- Sec. 6-30. Minors.
- Sec. 6-31. Clear view of interior of establishment required.

***Cross references**—Businesses, ch. 18; operation of vehicles on raceways restricted, § 46-3; parks and recreation, ch. 50; parades, § 62-61 et seq.

State law reference—Authority to regulate places of amusement and entertainment, G.S. 153A-135.

ARTICLE I. IN GENERAL

Secs. 6-1—6-25. Reserved.

ARTICLE II. POOL AND BILLIARD ROOMS

Sec. 6-26. Reserved.

Editor's note—Ord. No. 2021-32, § 2, adopted Dec. 20, 2021, repealed § 6-26, which pertained to penalty for violation of article and derived from Ord. of 4-7-77, § 6.

Sec. 6-27. Restrictions for ten or more tables for rent or hire.

It shall be unlawful for any person to operate a pool or billiard room where more than ten pool, billiard or bagatelle tables, or tables of like character, are kept for rent or hire or for any other compensation, directly or indirectly. A violation of this section is punishable as a misdemeanor.

(Ord. of 4-7-77, § 1; Ord. No. 2021-32, § 2, 12-20-21)

Sec. 6-28. Hours and days of operation.

No pool or billiard room or establishment shall be operated later than 11:00 p.m. on Mondays, Tuesdays, Wednesdays, or Thursdays, or later than 11:00 p.m. on Fridays or Saturdays. No pool or billiard room establishment shall be operated on Sundays. A violation of this section is punishable as a misdemeanor.

(Ord. of 4-7-77, § 2; Ord. No. 2021-32, § 2, 12-20-21)

Sec. 6-29. Gambling.

It shall be unlawful for any owner, manager, or any person in charge of a pool or billiard room or establishment to allow gambling. A violation of this section is punishable as a misdemeanor.

(Ord. of 4-7-77, § 3; Ord. No. 2021-32, § 2, 12-20-21)

Sec. 6-30. Minors.

(a) No person under 18 years of age shall be allowed to enter or loiter in a poolroom where any billiard, pool or bagatelle table, or tables of

like character, are kept for rent or hire, or for compensation, directly or indirectly. No owner, manager, or person in charge of a pool or billiard room where a table is kept for the purpose specified in this section, violating any provisions of this section by allowing persons under 18 years of age to enter such poolrooms. Any person under 18 years of age violating any provisions of this section shall be guilty of a misdemeanor.

(b) No owner, manager, or person in charge of any poolroom or billiard parlor shall admit any minor under 18 years of age, unless the minor shall be accompanied by his parent or legal guardian.

(c) A copy of this section shall be conspicuously posted in every poolroom and billiard parlor.

(Ord. of 4-7-77, § 4)

Cross reference—Minors in massage parlors restricted, § 18-30.

Sec. 6-31. Clear view of interior of establishment required.

It shall be unlawful for any person to place or keep any kind of stain, paint, curtains or other things on or in front of any glass which obscures the view into any place or building where a poolroom is maintained. A violation of this section is punishable as a misdemeanor.

(Ord. of 4-7-77, § 5; Ord. No. 2021-32, § 2, 12-20-21)

Cross reference—Buildings and building regulations, ch. 14.

Chapters 7–9

RESERVED

Chapter 10

ANIMALS*

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ARTICLE I. IN GENERAL

Sec. 10-1. Jurisdiction of chapter.

This chapter shall apply to all areas of the county which lie outside of the corporate limits of any municipality and to those areas within the corporate limits of any municipality which has adopted this chapter by resolution pursuant to section 10-2 (definition of "county/city").

(Ord. of 8-17-92, art. I, § 2; Ord. of 3-19-96, art. IV, § 2)

Sec. 10-2. Definitions.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Animal means every vertebrate, nonhuman species of animal, wild or domestic, male or female, including, but not limited to dogs, cats, livestock, and other mammals, birds, reptiles, amphibians, and fish.

Animal control officers mean persons properly appointed to pick up, restrain, impound, sell or dispose of dogs, cats, or other animals and who are responsible for discharging such other duties and functions as may be prescribed by the county board of commissioners by this or any other county ordinance or by state law, or pursuant to interlocal agreements executed pursuant to section 10-37.

Animal shelter means any facility designated by the county board of commissioners for the purpose of impounding and caring for all animals found running at large or otherwise subject to impounding in accordance with the provisions of this chapter, ordinances of the county, or state law.

Breeder means any person engaged in the commercial business of breeding animals for sale.

Cat means a domestic feline of either sex over six months of age.

County/city means Cabarrus County exclusive of territory under the jurisdiction of a municipal-

ity, except where the governing body of the municipality has requested the county to provide animal control within the municipality and has adopted the county animal control ordinance.

Dangerous animal means any animal whose behavior constitutes a reasonable risk of injuring a human or animal or damaging personal or real property. That behavior includes, but is not limited to, an animal biting or attempting to attack a human or another animal. However, this definition shall not apply to any animal that has been subjected to provocation or if the victim has been trespassing upon the owner's premises.

Day means, for calculation of time passage, a regular workday, exclusive of Saturday, Sunday, and county holidays.

Director/supervisor means any use of term "director/supervisor" shall mean the director/supervisor of the county animal control department, as designated by the sheriff, which person shall have all the powers conferred by state law upon a county dog warden or by this chapter upon animal control officers.

Department means the county animal control department, a division of the sheriff's department.

Dog means a domestic canine of either sex over six months of age.

Exposed to rabies means any animal or human bitten by or exposed to any animal known or suspected to have been infected with rabies.

Harboring an animal means feeding or sheltering an animal three days or more, unless the animal is being boarded for a fee.

Health director means the director of the county health department or a duly authorized agent thereof.

Impound means any animal which is received into custody by any employee or the department.

Inoculation means the vaccination of a dog or cat with antirabic vaccine approved by the United States Bureau of Animal Industry, the state department of agriculture, and the state board of health at such time as shall be required by state law, the state department of environment, health,

and natural resources, the commission for health services, the state health director, or the local health director as defined in G.S. 130A-186.

Neutered male means any male dog or cat which has been rendered sterile by a surgical procedure (orchietomy).

Owner means any person, group of persons, firm, organization, association, society, club, lodge, partnership, syndicate, trustee, or corporation owning, keeping, having charge of, sheltering, feeding, harboring, or taking care of any animal for three or more consecutive days unless the animal is boarded for a fee. If a commercial kennel is involved for breeding, then ownership shall be indicated by the kennel operator by showing the registration of the animal in the name of the actual owner of the animal.

Premises means a definite portion of real estate including land with its appurtenances, a building or part of a building.

Provocation means any action designed to goad, inflame, instigate or stimulate an aggressive response on the part of an animal, but provocation shall not include any actions on the part of an individual that pertain to reasonable efforts to self-defense against an unprovoked dangerous animal.

Secure dog fence means a secure dog fence, in addition to requirements subsequently specified under "unconfined," requires enclosure on all six sides including the top. The bottom must be concrete unless the sides of the fence are buried one foot deep in a hard packed soil.

Sheriff means the duly elected sheriff of Cabarrus County.

Spayed female means a female dog or cat which has been rendered sterile by a surgical procedure (ovariohysterectomy).

Unconfined means any dog that is not securely confined indoors or confined in a secure dog fence upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the structure has no bottom secured to the sides, the sides must be embedded into the ground no less than

one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

Vaccination means the administration of rabies vaccine, as required by article IV.

Vicious dog means:

- (1) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals;
- (2) Any dog which, because of its vicious propensity, is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this chapter;
- (3) Any dog which, without provocation, attacks or bites or has attacked or bitten a human being or domestic animal; or
- (4) Any dog owned or harbored primarily or in part for the purpose of dogfighting, or any dog trained for dogfighting.

(Ord. of 8-17-92, art. I, § 4; Ord. of 3-19-96, art. I, § 4)

Cross reference—Definitions generally, § 1-2.

Sec. 10-3. Reserved.

Editor's note—Ord. No. 2021-32, § 3, adopted Dec. 20, 2021, repealed § 10-3, which pertained to penalty for violation of chapter and derived from Ord. of 8-17-92, art. I, § 17; Ord. of 3-19-96, art. I, § 17; Ord. No. 1998-01, 1-20-98.

Sec. 10-4. Cruelty.

It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animal, or to cause or procure such action. The words "torture" and "torment" shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit lawful taking of animals under the jurisdiction and regulation of the wildlife resources commission; nor to prohibit

the animal control department or its agents or veterinarians from destroying dangerous, unwanted, or injured animals in a humane manner; nor to prohibit any individual from killing a dangerous animal in imminent defense of person or property; nor to prohibit the lawful use of animals in scientific research. A violation of this section is punishable as a misdemeanor. (Ord. of 8-17-92, art. I, § 7; Ord. of 3-19-96, art. I, § 7; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-5. Abandonment.

Any person being the owner or possessor, or having charge or custody of an animal, who willfully and without justifiable excuse abandons the animal is guilty of a Class 2 misdemeanor punishable by a fine of up to \$1,000.00 and imprisonment for up to 60 days. (Ord. of 8-17-92, art. I, § 8; Ord. of 3-19-96, art. I, § 8)

State law reference—Similar provisions, G.S. 14-361.1.

Sec. 10-6. Restraint.

(a) *Physical restraint of animal.* It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, excluding cats, to keep such animal on his premises or off the premises unless such animal is under sufficient physical restraint such as a leash, bridle, cage, or similar device which restrains and controls the animal, or within a vehicle or adequately contained by a fence on the premises or other secure enclosure. If it is an effective, working invisible fence, then there must be a visible, permanent sign on the premises stating that there is an invisible fence; provided, however, animals kept on premises five acres or greater in size do not have to be kept within a fence or other secure enclosure, or under any physical restraint while on such premises.

(b) *Adult with animal on premises.* If a responsible adult is physically outside on the land immediately adjacent to the animal, on the land where the owner of the animal resides, and the animal is under the person's direct control and is obedient to that person's commands, then this section shall not apply during the duration of time the animal is in the company and under

the control of that adult and the animal is on the premises. "Adult" is defined as 18 years of age or older.

(c) *Hunting on or off premises.* Hunting dogs shall be excluded from the provisions requiring physical restraint while the dogs are engaged in hunting, provided that the hunting complies with state law and provided that the hunters are not trespassing.

(d) *Violations.* Issuance of a citation for a violation of subsection (a) of this section is directed toward and against the owner of an animal. The purpose of the issuance of a citation is to effect the conduct of the owner of an animal by seeking to have an owner responsibly maintain sufficient restraint and confinement of his/her animal. Therefore, an owner of an animal shall be subject to escalating penalties for each violation of subsection (a) of this section allowed by the owner, whether the animal is the same animal, a different animal, or various animals belonging to the owner. Each violation of subsection (a) of this section shall be punishable as a misdemeanor and subject the owner to the following escalating citation penalties:

<i>Owner's Offense</i>	<i>Penalty</i>
1st	\$50.00 fine. Seizure of the animal unless the owner immediately complies with subsections (a) and (b) of this section.
2nd	\$150.00 fine. Seizure of the animal unless the owner immediately complies with subsections (a) and (b) of this section.
3rd and subsequent offenses	\$250.00 fine. Seizure of the animal unless the owner immediately complies with subsections (a) and (b) of this section.

(Ord. of 8-17-92, art. I, § 9; Ord. of 3-15-93, § 1; Ord. of 3-19-96, art. I, § 9; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-7. Public nuisance.

(a) The actions of an animal constitute a nuisance when an animal disturbs the rights of, threatens the safety of or damages a member of

the general public, interferes with the ordinary use and enjoyment of another's property, or frightens or harms livestock.

(b) It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance. By way of example and not of limitation, the following acts or actions by an owner or possessor of an animal are hereby declared to be a public nuisance and are therefore unlawful:

- (1) Having an animal that disturbs the rights of, threatens the safety of or damages a member of the general public, or interferes with the ordinary use and enjoyment of one's property.
- (2) Allowing or permitting an animal to damage the property of anyone other than its owner, including but not limited to, turning over garbage containers; damaging gardens, flowers, or vegetables; defecating upon the property of another; or frightening or harming livestock.
- (3) Maintaining animals in an unsanitary environment which results in offensive odors or is dangerous to the animal or to the public health, safety or welfare, or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease.
- (4) Maintaining the owner's property in a manner that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property.
- (5) Allowing or permitting an animal to bark, whine, howl, crow, or cackle in an excessive or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises.
- (6) Maintaining an animal that is diseased and dangerous to the public health.
- (7) Maintaining an animal that habitually or repeatedly chases, snaps at, or attacks pedestrians, joggers, animals walked on a leash by owners, bicycles or other vehicles.

- (8) Failing to confine a female dog or cat while in heat in a building or secure enclosure in such a manner that she will not be in contact with another dog or cat or attract other animals, provided this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of the animal which is being bred.

In addition to any other enforcement remedies available under this chapter, if the director/supervisor declares an animal to be a nuisance under this section, then the director/supervisor has the authority to order the owner to confine the animal in accordance with the instructions of the director/supervisor. It shall be unlawful for the owner to fail to comply with such an order or with the instructions in the order.

(c) A violation of this section is punishable as a misdemeanor.
(Ord. of 8-17-92, art. I, § 10; Ord. of 3-19-96, art. I, § 10; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-8. Dangerous animals.

(a) It shall be unlawful for any person to own or in any way maintain or harbor any animal which is dangerous.

(b) If the director/supervisor has determined that an animal is dangerous, then the director/supervisor shall notify the owner immediately in writing, if the owner is known and after reasonable efforts to (otherwise) notify the owner (have failed). The owner shall turn the animal over to the department immediately after such notification. The director/supervisor shall have the authority to seize immediately an animal deemed dangerous. The director/supervisor shall have the discretion to dispose of an animal in one of only two specific ways:

- (1) By the humane destruction of the animal; or
- (2) By giving the animal to an individual or an organization, subject to the protective and inspection conditions required by the director/supervisor for the well-being of the animal and for the protection of the public, for the purpose of preserving

and taking care of the animal. An animal declared to be a dangerous animal by the director/supervisor shall not be disposed of for research or experimental purposes.

(c) The sheriff shall conduct a hearing to determine if the director/supervisor's determination that the animal is dangerous is correct or incorrect. If the animal is judged not to be dangerous, it shall be returned to the owner. If the sheriff determines the animal to be dangerous, then the director/supervisor shall dispose of the animal only in the manner described in subsections (b)(1) and (b)(2) of this section. In the event of an appeal to the courts from the sheriff's decision, the animal shall be confined at the animal shelter, and a cash bond shall be requested for all costs whatsoever attendant upon county's retention of the animal.

(d) A violation of this section is punishable as a misdemeanor.
(Ord. of 8-17-92, art. I, § 12; Ord. of 3-19-96, art. I, § 12; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-9. Seizure and disposition.

(a) *Authority to seize animals.* In addition to any other authority or procedure authorized by this chapter or by any other law to seize an animal, the department shall have the authority to summarily seize any animals from premises when the department determines that the animal is in circumstances that pose a danger to the public safety or public health, or to seize an animal at any other time, when so authorized in this chapter or pursuant to G.S. 14-360, 19A-1, 2, 3, 4, and 19A-45, 46, 47, and 48. The written order shall explicitly state that the department has the authority to terminate ownership rights of the animal, including the possible humane destruction of the animal, if there is a failure to comply with the written order, or unless otherwise directed by court order.

(b) *Obligation of owner to comply with seizure order.* When the director/supervisor serves the owner with an order to seize an animal, it shall be unlawful for the owner to fail to comply with the order or to interfere with the animal control officer.

(c) *Challenge to the seizure order.* If the owner wishes to challenge the seizure order, then the owner must submit in writing the basis of the challenge within five days of the seizure of the animal, not counting the day of seizure of the animal. The challenge must be filed with the office of the animal control department. The sheriff is authorized to hear and decide the challenge to the seizure order in the same manner as provided for in section 10-8, unless the seizure is accomplished through the authority of state law, in which case the hearing will be held in the district courts of the county as by law provided. The department has the obligation to make reasonable efforts to notify the owner.

(d) *Owner's redemption of animal.* The owner is entitled to redeem the animal, unless the director/supervisor retains the animal upon some other basis of legal authority, by paying all applicable fees, citation fees, boarding fees, and other costs that are attributable to the seizure of the animal, and complying with any outstanding department order.

(e) *Owner's posting of a bond.* If the director/supervisor has seized an animal, as authorized by this chapter, or for any other legally authorized seizure and confinement of an animal, and the director/supervisor determines that the department's retention of any animal so seized by the department, might extend beyond five days, then the director/supervisor shall be authorized to require the owner to post a bond or to deposit cash within a reasonable time to cover the boarding costs for the animal and any foreseen, reasonable veterinarian fees required by law or deemed necessary for the animal during the period of confinement.

(f) *Termination of owner's rights.* If an owner fails to comply with the requirement that constituted the basis for seizing the animal, or fails to reclaim the animal within the applicable time period, then the director/supervisor shall have the authority to humanely destroy the animal or place the animal for sale to the public, all in accordance with this section, or to place the animal with a local humane society for future placement through the humane society.

(g) [Violation.] A violation of this section is punishable as a misdemeanor. (Ord. of 8-17-92, art. I, § 14; Ord. of 3-19-96, art. I, § 14; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-10. Interference with enforcement of chapter.

It shall be unlawful for any person to interfere with, hinder or molest the animal control department or its agents or animal control officers or veterinarians in the performance of any duty authorized by this chapter, or otherwise specifically provided. When requested, an officer of the county sheriff's department or the municipal law enforcement agency shall accompany an animal control officer investigating a suspected dangerous or vicious dog. A violation of this section is punishable as a misdemeanor. (Ord. of 8-17-92, art. I, § 15; Ord. of 3-19-96, art. I, § 15; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-11. Sale and adoption.

Notwithstanding any other provision of this chapter, impounded animals shall not be sold to or adopted by anyone who intends to use them or sell them for research, experimentation or vivisection. A violation of this section is punishable as a misdemeanor. (Ord. No. 2002-06, 10-21-02; Ord. No. 2021-32, § 3, 12-20-21)

Secs. 10-12—10-35. Reserved.

ARTICLE II. ANIMAL CONTROL DEPARTMENT

Sec. 10-36. Establishment and composition; appointment and compensation of department employees.

There is hereby created an animal control department which shall be a division of the sheriff's department, and shall be composed of such employees as shall be determined by the county commissioners. Such employees shall be appointed by the sheriff pursuant to G.S. 153A-103 and compensated in accordance with the personnel policies of the county.

Appeals provided for in this chapter shall be to the sheriff.

The sheriff is specifically appointed as the animal cruelty investigator for the county pursuant to G.S. 19A-45. (Ord. of 8-17-92, art. I, § 1; Ord. of 3-19-96, art. I, § 1)

Sec. 10-37. General duties.

The animal control department shall be charged with the responsibility of:

- (1) Enforcing in this county all state and county laws, ordinances and resolutions relating to the care, custody, and control of animals.
- (2) Cooperating with the health director and assisting in the enforcement of the laws of the state with regard to animals and especially with regard to vaccination of animals against rabies and the confinement or leashing of vicious animals.
- (3) Investigating cruelty or animal abuse with regard to animals.
- (4) Making such canvasses of the county, including the homes in the county, as it deems necessary for the purpose of ascertaining that all animals are vaccinated against rabies as required by local ordinance or state statute.
- (5) Operating, under the supervision of the sheriff, pursuant to policies of the board of county commissioners, the county animal shelters.

(Ord. of 8-17-92, art. I, § 2; Ord. of 3-19-96, art. I, § 2)

Sec. 10-38. Records.

It shall be the duty of the animal control department to keep, or cause to be kept, accurate and detailed records for three years of:

- (1) Impoundment and disposition of all animals coming into the animal shelters.
- (2) Bite cases, violations and complaints and investigation of same.

- (3) All monies belonging to the county which were derived from impoundment fees, penalties and license tags, and sales of animals.
 - (4) All other records deemed necessary by the county manager.
- (Ord. of 8-17-92, art. I, § 3; Ord. of 3-19-96, art. I, § 3)

Secs. 10-39—10-55. Reserved.

ARTICLE III. DOGS AND CATS

Sec. 10-56. Vicious dogs.

(a) *Confinement.* The owner of a vicious dog shall not suffer or permit the dog to go unconfined. The vicious dog shall be maintained in a secure dog fence.

(b) *Leash and muzzle.* The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(c) *Signs.* The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(d) *Dogfighting.* No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dogfighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.

(e) *Appeal.* Any person who owns an animal that has been declared vicious by the director/supervisor shall have the right to appeal this decision to the sheriff. The owner of an animal declared vicious shall have the right to request a hearing about that decision by submitting a

written request to the sheriff within five days after the director's/supervisor's determination that the animal is vicious.

(f) *Violation.* Violation of the requirements of this article by a dog declared vicious pursuant to the procedure set forth in this section shall result in the immediate seizure of the vicious dog and may result in its humane destruction and the prosecution of its owner for a misdemeanor. (Ord. of 8-17-92, art. I, § 11; Ord. of 3-19-96, art. I, § 11; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-57. Protective measures for confinement of potentially dangerous dogs.

(a) *Circumstances requiring special preventive measures.* The department shall have the authority to require the owner or custodian of a dog to comply with specific preventive measures, as described in subsection (b) of this section, after taking into consideration the following factors:

- (1) *Nature of the particular dog.* The behavior, size, temperament, capacity for inflicting serious injury, the number of dogs involved or other such factors which would be relevant to determination of whether or not additional preventive measures need to be imposed for a particular situation.
- (2) *Adequacy of confinement.* The adequacy of the enclosure or confinement, if any.
- (3) *Immediate surrounding area.* The likelihood that the conditions pertaining to the particular dog and the dog's confinement are detrimental to the safety, welfare or peace and tranquility of citizens in the immediate surrounding area.
- (4) *Child under the age of seven.* A child under the age of seven lives in close proximity, or small children walk by or are otherwise in close proximity to the premises occupied by the dog.
- (5) *Bite.* The dog has bitten a human being or domestic animal, without provocation or trespass, and the person bitten does not ordinarily reside on the premises.

- (6) *Dog trained for fighting or aggressive attack.* The dog is used for competitive dogfighting or the dog has been trained for aggressive attacks.
- (7) *Attitude of attack incident.* The dog, without provocation or a trespass, has approached a person in an apparent attitude of attack.
- (8) *Reputation of the dog.* The dog has a known propensity, reputation, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals.

In considering whether to order a special preventive measure, the department is authorized to consider additional factors as aggravating circumstances that might warrant the ordering of special preventive measures.

(b) *Preventive measures.* If the department determines that the circumstances require special preventive measures, then the department shall have the authority to require appropriate, specific preventive measures which might include, but are not limited to, the following:

- (1) Necessary repairs to any fence or enclosure.
- (2) Measures to ensure that a gate will remain secure.
- (3) A fence or secure dog fence or any other similar device that would provide greater assurance for the confinement of the dog, subject to specific approval by the department.
- (4) The department shall also have the authority to require the owner to tattoo the dog at the owner's expense, if that is necessary for identification, investigation, or enforcement purposes.

(c) *Written order.* If the department determines that a dog owner must take specific preventive measures, the department shall make reasonable efforts to notify the owner by the written order, stating the reasons that preventive measures are required, identifying the specific preventive measures that must be implemented

and stating the designated time period for compliance with the written order. The department shall have the authority to allow for reasonable extensions of time limits based on good faith progress of implementation of the preventive measures. Any approved extensions shall be in writing.

(d) *Failure to comply with written order.* It shall be unlawful for an owner to fail to comply with a written order to take preventive measures within the designated time for compliance stated in the written order or any extension thereof. A violation of this section is punishable as a class 3 misdemeanor with a fine of \$100.00 for a first offense and \$200.00 for each subsequent violation.

(e) *Owner's challenge to written order.* The owner may submit in writing a challenge to the department's determination that subsection (a) of this section is applicable to the owner's premises or submit in writing a challenge to the specific preventive measures required by the department. The owner's written challenge must be received by the sheriff by the end of five days of the date of the written order, not counting the day of issuance of the written order. The review of the challenge may be done solely on the basis of written material, or if requested by the owner, the sheriff may hold a formal hearing at which the owner and issuing officer shall have an opportunity to present oral or documentary information. If a formal hearing is requested, the sheriff shall schedule the hearing as soon as possible after the request.

(f) *Seizure and disposition of animal.* The department is authorized to seize an animal as provided in section 10-9, when the owner has not complied with the written order and the time for filing a challenge has expired. (Ord. of 8-17-92, art. I, § 13; Ord. of 3-19-96, art. I, § 13; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-58. Adoptions; spay/neuter.

Appropriate animals that come into the custody of the animal control division will be offered for adoption. Persons wishing to adopt an animal from the shelter shall pay a fee in the amount of \$65.00 for dogs and \$35.00 for cats which shall

be used to offset the cost of the adoption program and veterinarian services related to the adoption of the animals.

Persons adopting an animal from the shelter shall be encouraged to have the animal spayed or neutered.

Adoptable animals that are not chosen for adoption within the time limits established by the animal control division may be adopted by the Humane Society of Concord and Greater Cabarrus County without payment of the adoption fee.

(Ord. of 8-17-92, art. I, § 16; Ord. of 12-7-92(1), § 1; Ord. of 3-19-96, art. I, § 16; Ord. No. 1998-01, 1-20-98)

Secs. 10-59—10-95. Reserved.

ARTICLE IV. RABIES CONTROL

Sec. 10-96. Compliance with state law; article as supplement to state law.

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

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

(c) A violation of this section is punishable as a misdemeanor.

(Ord. of 8-17-92, art. II, § 1; Ord. of 3-19-96, art. II, § 1; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-97. Inoculation of dogs, cats, and other pets.

(a) It shall be unlawful for an owner to fail to provide current inoculation by a licensed veterinarian against rabies (hydrophobia) for any dog or cat four months of age or older. Should it be deemed necessary by the county health director, the board of county commissioners or the state public health veterinarian that other pets be inoculated in order to prevent a

threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner to fail to provide current inoculation by a licensed veterinarian against rabies for that pet.

(b) A rabies inoculation shall be deemed current for a dog or cat if two inoculations have been given one year apart and a booster dose of rabies vaccine administered every three years thereafter.

(c) A violation of this section is punishable as a misdemeanor.

(Ord. of 8-17-92, art. II, § 2; Ord. of 3-19-96, art. II, § 2; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-98. Inoculation tag.

(a) Upon complying with the provisions of section 10-97, there shall be issued to the owner of the animal inoculated a numbered metallic tag, stamped with the number and the year for which issued, and indicating that the animal has been inoculated against rabies.

(b) It shall be unlawful for any dog owner to fail to provide the dog with a collar or harness to which a current tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times unless the animal is confined in a secure enclosure. Dogs not wearing such tags and for which the owner cannot promptly display a valid tag shall be impounded. A violation of this subsection is punishable as a misdemeanor subject to a fine of \$50.00.

(c) It shall be unlawful for any person to use for any animal a rabies inoculation issued for an animal other than the one using the tag. A violation of this subsection is punishable as a misdemeanor.

(Ord. of 8-17-92, art. I, § 5(3), art. II, § 3; Ord. of 3-19-96, art. I, § 5, art. II, § 3; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-99. Evidence of inoculation of cats.

Cats shall not be required to wear the metallic tag referred to in section 10-98, but the owner of a cat shall maintain the rabies vaccination certificates as written evidence to prove that the cat has a current rabies inoculation. Cats for

which the owner cannot promptly display a valid rabies tag shall be impounded. A violation of this section is punishable as a misdemeanor subject to a fine of \$50.00.

(Ord. of 8-17-92, art. II, § 4; Ord. of 3-19-96, art. II, § 4; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-100. Report and confinement of animals biting persons or showing symptoms of rabies.

(a) Every dog or cat which has bitten any person or which shows symptoms of rabies shall be confined immediately and shall be promptly reported to the animal control department, and thereupon shall be securely quarantined, at the direction of the animal control department, for a period of ten days and shall not be released from such quarantine except by written permission from the animal control department.

(b) Dogs and cats quarantined under this section shall be confined in a veterinary hospital, boarding kennel, or county animal shelter, at the expense of the owner; provided, however, that if an animal control officer determines that the owner of an animal which must be quarantined has adequate confinement facilities upon his own premises, the animal control officer shall authorize the animal to be confined on such premises. The animal control officer may not authorize the animal to be confined on the owner's premises unless the owner has a fenced-in area in his yard, the fenced-in area has no entrances or exits that are not locked, and the animal is currently vaccinated against rabies. If the animal is confined on the owner's premises, the animal control officer shall revisit the premises for inspection purposes at approximately the middle of the confinement period and again at the conclusion of the confinement period.

(c) In the case of stray dogs or cats whose ownership is not known, the dogs or cats may be euthanized and the head examined for rabies or kept for the supervised quarantine period required by this section at the county animal shelter.

(d) If rabies does not develop within ten days after a dog or cat is quarantined under this section, the dog or cat may be released from quarantine with the written permission of the

animal control department. If the dog or cat has been confined in the county animal shelter, the owner shall pay a fee determined by resolution of the board of county commissioners for each day of confinement to defray the cost available for public inspection in the office of the clerk to the board of county commissioners and the county animal shelter.

(e) In the case of any carnivore or bat, the animal may be euthanized and the head examined for rabies.

(f) A violation of this section is punishable as a misdemeanor.

(Ord. of 8-17-92, art. II, § 5; Ord. of 3-19-96, art. II, § 5; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-101. Destruction or confinement of animal bitten by rabid animal.

(a) If an animal has a current rabies inoculation and is bitten by a known rabid animal, the animal bitten shall be revaccinated and returned to the owner.

(b) If an animal does not have a current rabies inoculation and is bitten by a known rabid animal, the owner of the bitten animal must strictly isolate the bitten animal in an animal shelter, boarding kennel, or at a veterinary hospital for a period of six months or the animal will be immediately destroyed.

(c) A violation of this section is punishable as a misdemeanor.

(Ord. of 8-17-92, art. II, § 6; Ord. of 3-19-96, art. II, § 6; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-102. Area-wide emergency quarantine.

(a) When reports indicate a positive diagnosis of rabies, the county director of public health may order an area-wide quarantine for such period as he deems necessary. Upon invoking of such emergency quarantine, no dog, cat, or other carnivore shall be taken into the streets or permitted to be in the streets during such period. During such quarantine, no dog, cat, or other carnivore may be taken or shipped from the county without written permission of the animal

control department and the police and sheriff's departments, and the police and sheriff's departments are hereby directed during such emergency, to impound any dog, cat, or other carnivore found running at large in the county. During the quarantine period, the animal control department or the local health authorities shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county.

(b) If there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the county director of public health.
(Ord. of 8-17-92, art. II, § 7; Ord. of 3-19-96, art. II, § 7)

Sec. 10-103. Postmortem diagnosis.

(a) If an animal dies while under observation for rabies, the head of such animal shall be immediately submitted to the county health department for shipment to the laboratory section of the department of environment, health, and natural resources for rabies diagnosis.

(b) The carcass of any animal suspected of dying of rabies shall be surrendered to the animal control department. The head of such animal shall be immediately submitted to the county health department for shipment to the laboratory section of the department of environment, health, and natural resources for rabies diagnosis.

(c) A violation of this section is punishable as a misdemeanor.
(Ord. of 8-17-92, art. II, § 8; Ord. of 3-19-96, art. II, § 8; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-104. Unlawful killing, releasing, of certain animals.

It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal suspected of having been exposed to rabies, or any animal biting a human, or to remove such animal from the county without written permission from the animal control depart-

ment and the county director of public health. A violation of this section is punishable as a misdemeanor.

(Ord. of 8-17-92, art. II, § 9; Ord. of 3-19-96, art. II, § 9; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-105. Failure to surrender animal for quarantine or destruction.

It shall be unlawful for any person to fail or refuse to surrender any animal for quarantine or destruction as required in this article, when demand is made therefor by the animal control department. A violation of this section is punishable as a misdemeanor.

(Ord. of 8-17-92, art. II, § 10; Ord. of 3-19-96, art. II, § 10; Ord. No. 2021-32, § 3, 12-20-21)

Secs. 10-106—10-120. Reserved.

ARTICLE V. IMPOUNDMENT

Sec. 10-121. Generally.

Any dog which appears to be lost, stray, and which is found to be not wearing a currently valid rabies vaccination tag, as required by state law or this chapter, and not under restraint in violation of this chapter, shall be impounded by the animal control department and confined in an animal shelter in a humane manner. Impoundment of such an animal shall not relieve the owner thereof from any penalty which may be imposed for violation of this chapter.

(Ord. of 8-17-92, art. III, § 1; Ord. of 3-19-96, art. III, § 1)

Sec. 10-122. Notice to owner.

Immediately upon impounding an animal, the animal control department shall make reasonable effort to notify the owner and inform such owner of the conditions whereby the animal may be redeemed. If the owner is unknown or cannot be located, impoundment shall be three days or longer, at the discretion of the animal control officer.

(Ord. of 8-17-92, art. III, § 2; Ord. of 3-19-96, art. III, § 2)

Sec. 10-123. Redemption by owner generally.

(a) If an impounded animal is not redeemed by the owner within the period prescribed in section 10-122, it may be destroyed in a humane manner or shall become the property of the animal shelters and offered for adoption to any responsible adult who is willing to comply with this chapter. It is recommended that cylinder carbon monoxide gas rather than engine-produced carbon monoxide gas be used in the destruction of unclaimed animals. Such animal may be adopted or purchased by the first such person who pays the adoption or purchase fee and rabies vaccination fee.

(b) The animal control department shall recommend that all adopted female dogs and cats released from the animal shelter be spayed.

(c) No animal which has been impounded by reason of its being stray, unclaimed by its owner, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to section 10-102, except by special authorization of the director of public health and the animal control department. (Ord. of 8-17-92, art. III, § 3; Ord. of 3-19-96, art. III, § 3; Ord. No. 2002-06, 10-21-02)

Sec. 10-124. Redemption or adoption of unvaccinated dog or cat.

(a) Unless proof of a current rabies vaccination can be furnished, every person who either adopts or redeems a dog or cat at the animal shelter will be given a proof of rabies vaccination card at the time of the redemption or adoption. This card will be stamped with a date stating the maximum time limit allowed to take the dog or cat to the veterinarian of such person's choice for rabies vaccination. The time limit for dogs and cats four months and older will be 72 hours, with Sundays and holidays excluded. For puppies and kittens under four months, the time limit will vary according to their age.

(b) The proof of rabies vaccination card will be completed and returned to the animal shelter by the person adopting the animal. If this card is

not returned to the animal shelter within the time limit specified on the card, an animal control officer will be dispatched to retrieve the dog or cat.

(c) Payment for rabies vaccination provided for in this section will be the responsibility of the person redeeming or adopting the animal. (Ord. of 8-17-92, art. III, § 5; Ord. of 3-19-96, art. III, § 5)

Sec. 10-125. Suspected rabid animals not to be redeemed or adopted.

Notwithstanding any other provision of this article, animals impounded which appear to be suffering from rabies shall not be redeemed or adopted, but shall be dealt with in accordance with article IV. (Ord. of 8-17-92, art. III, § 6; Ord. of 3-19-96, art. III, § 6)

Sec. 10-126. Destruction of wounded or diseased animals.

Notwithstanding any other provision of this article, any animal impounded which is badly wounded or diseased, not a rabies suspect, and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, the animal control department shall attempt to notify the owner before disposing of such animal, but if the owner cannot be reached readily, and the animal is suffering, the animal control department may destroy the animal at its discretion in a humane manner. (Ord. of 8-17-92, art. III, § 7; Ord. of 3-19-96, art. III, § 7)

Secs. 10-127—10-130. Reserved.

ARTICLE VI. INHERENTLY DANGEROUS ANIMALS

Sec. 10-131. Definitions.

(a) For the purpose of this article, an inherently dangerous animal includes any inherently dangerous exotic mammal or inherently dangerous reptile defined herein.

(b) *Inherently dangerous exotic mammal* is any member of the canidae, felidae, or ursidae families, including hybrids thereof, which due to their inherent nature, may be considered dangerous to humans.

- (1) *Canidae* includes any member of the dog (canid) family not customarily domesticated by man, or any hybrids of such canidae thereof, including wolf hybrids which are a cross between a wolf and a domestic dog, but not including dogs (*Canis familiaris*).
- (2) *Felidae* includes any member of the cat family not customarily domesticated by man or any hybrids of such felidae, but not including domestic cats (*Felis catus*).
- (3) *Ursidae* includes any member of the bear family, or hybrids of such ursidae.

(c) *Inherently dangerous reptile* is any member of the class reptilia which:

- (1) Is *venomous*. A venomous reptile shall include all members of the families Helodermodidae (gila monsters and Mexican beaded lizards), Viperidae (vipers), Crotalidae (pit vipers), Atractaspidae (burrowing asps), Hydrophilidae (snakes), and Elapidae (cobras, coral snakes, and their allies), as well as any "rear fanged" snakes of the family Colubridae that are known to be dangerous to humans (including, but not limited to *Dispholidus typus* (boomslang), *Thebtornis kirtlandii* (twig snake), *Rhabdophisspp* (keelbacks)).
- (2) Is a member of the order *Crocodylia* (crocodiles, alligators, and caiman).

(d) *Harbored* of an inherently dangerous exotic mammal or inherently dangerous reptile is any person or persons, regardless of ownership, who

allows an inherently dangerous exotic mammal or inherently dangerous reptile to remain, lodge, or be fed or to be given shelter or refuge within a person's home, store, yard, enclosure, outbuilding, abandoned vehicle or building, place of business, or any other premises in which the person resides or over which the person has control.

(Ord. of 7-22-96)

Sec. 10-132. Possession of inherently dangerous animals.

At no time may any person or persons harbor an inherently dangerous exotic mammal or inherently dangerous reptile. A violation of this section is punishable as a misdemeanor. For every day that the animal(s) remain housed or harbored as defined in section 10-131 shall constitute a new offense.

(Ord. of 7-22-96; Ord. No. 2021-32, § 3, 12-20-21)

Sec. 10-133. Exceptions.

This article does not apply to:

- (1) Veterinary clinics in possession of such mammals or reptiles for treatment or rehabilitation purposes.
- (2) Any institution or organization which exists primarily to educate the public in the areas of science and nature; which receives or has received financial support from federal, state, and/or local governments; which has a paid membership open to and composed of members of the general public; which is directed by a board of directors or similar body elected by the membership; and which has been declared a 501(c)(3) exempt organization by the Internal Revenue Service.
- (3) Nonresident circuses for not longer than one seven-day period, per each separate location where such circuses are held within the county, per calendar year.
- (4) Nonresident carnivals for not longer than one seven-day period, per each separate location where such carnival is held within the county, per calendar year.

- (5) Persons temporarily transporting such mammals or reptiles through the county, provided that such transit time shall not be more than 24 hours.

(Ord. of 7-22-96)

Sec. 10-134. Impoundment; disposition of impounded animals.

(a) Any inherently dangerous exotic mammal or inherently dangerous reptile which is kept by any person in contravention of section 10-132 of this article may be taken up and impounded by the animal control officer for the protection and health of the animal and/or for the protection of the public. Whenever possible, the animal control officer shall take up and impound the animal in the presence of its owner or harborer; however, if such is not practicable, then the animal control officer may impound such animal, consistent with the provisions of this section.

(b) If an animal is impounded pursuant to this section, the owner or harborer of the animal shall be notified by the animal control officer in person or by certified mail.

(c) Any animal impounded pursuant to this section will be held three days for the owner to claim pursuant to subsection (d) of this section, but if the animal cannot be taken up safely by the animal control officer or if proper and safe housing cannot be found for the animal, the animal control officer can immediately destroy the animal.

(d) The owner or harborer of the animal can reclaim the animal if the person can satisfy the chief animal control officer that a safe transfer of the animal to an appropriate location outside of the county has been arranged.

(e) If no owner or harborer can be located or will claim the animal within three days after impoundment, the animal control officer may sell, deliver, adopt or euthanize the animal at the discretion of the animal control officer.

(f) All costs of impoundment and care of the animal will be charged to its owner or harborer regardless of whether the animal is claimed by or returned to said owner or harborer, and in the event the animal is reclaimed, such costs shall

be paid in full prior to the owner or harborer reclaiming the animal pursuant to subsection (d) of this section.

(Ord. of 7-22-96)

Sec. 10-135. Reserved.

Editor's note—Ord. No. 2021-32, § 3, adopted Dec. 20, 2021, repealed § 10-135, which pertained to violation and derived from Ord. of 7-22-96.

Chapters 11–13

RESERVED

Chapter 14

BUILDINGS AND BUILDING REGULATIONS*

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Article II. Permits and Inspections

Sec. 14-26. Permits required.
Sec. 14-27. Permit application.
Sec. 14-28. Approval of plans.
Sec. 14-29. Variations.
Sec. 14-30. Additional permit restrictions.
Sec. 14-31. Permit fees.
Sec. 14-32. Inspections.
Sec. 14-33. North Carolina Rehabilitation Code adopted.
Sec. 14-34. Appendix G of the International Residential Code (2002 edition) adopted.
Secs. 14-35—14-50. Reserved.

Article III. Housing Code

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Sec. 14-101. Costs; a lien on premises.

***Cross references**—Clear view of the interior of pool room required, § 6-31; fire prevention and protection, ch. 34; floods, ch. 38; manufactured homes and trailers, ch. 42; streets, sidewalks and other public places, ch. 62; subdivision regulations, ch. 66; utilities, ch. 78.

State law reference—Building code council and building code, G.S. 143-136 et seq.

CABARRUS COUNTY CODE

- Sec. 14-102. Alternate remedies.
- Sec. 14-103. Planning and zoning commission, serving as the zoning board of adjustment, to hear appeals.

ARTICLE I. IN GENERAL

Secs. 14-1—14-25. Reserved.

ARTICLE II. PERMITS AND INSPECTIONS*

Sec. 14-26. Permits required.

(a) It shall be unlawful for any person to build, construct, repair, remodel, insulate, add to, move, or demolish any structure or building within the county without first having secured a permit for the proposed work.

(b) It shall be unlawful to initiate work on any proposed project before a permit is obtained. A fee equal to two times the permit fee will be assessed for a violation of this section.

(c) A permit is not required for any construction, installation, repair, replacement, or alteration costing \$5,000.00 or less in any single-family residence or farm building unless the work involves: the addition, repair, or replacement of load-bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement, or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the International Building Code (including North Carolina amendments); or the addition, excluding replacement of like grade of fire resistance, of roofing.

(d) It shall be unlawful to commence or proceed with any new construction without first obtaining an insulation permit.

(e) It shall be unlawful for any person who, for consideration, installs, alters, or restores any insulation or other materials or energy utilization equipment designed or intended to meet the International Building Code (including North Carolina amendments) requirements for insulation and energy utilization standards, to begin work without first securing a permit. This requirement shall not apply to an owner working upon

*State law reference—County building inspection, G.S. 153A-350 et seq.

his own building or to an installer working under the supervision of a registered architect or professional engineer, whose name and registration number shall appear upon the face of the permit.

(f) It shall be unlawful to commence or proceed with construction on any building or structure requiring a fire sprinkler without first obtaining a fire sprinkler permit.

(g) It shall be unlawful to commence or proceed with the installation, extension, or general repair of any plumbing system without first securing a permit.

(h) It shall be unlawful to commence or proceed with the installation, extension, or general repair of any heating or cooling equipment system without first securing a permit.

(i) It shall be unlawful to commence or proceed with the installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment without first securing a permit.

(j) The following municipalities shall be subject to the requirements of the county public safety services department regarding issuance of permits, fees, and inspection: Concord, Harrisburg, Kannapolis, Midland, and Mt. Pleasant.

(k) No applicant may obtain a permit of any kind without correcting all code defects in his work performed under a previously issued permit.

(l) A violation of this section is punishable as a misdemeanor.

(Ord. of 5-13-91; Ord. of 12-16-91; Ord. No. 1999-06, 6-21-99; Ord. No. 2003-04, 3-17-03; Ord. No. 2021-32, § 4, 12-20-21)

State law reference—Similar provisions, G.S. 143-138(b), 143-151.29, 143-151.31, 153A-357.

Sec. 14-27. Permit application.

(a) Application for permits shall be made to the public safety services department and shall be accompanied by plans and specifications showing the proposed work. Sealed architect or engineer drawings of appropriate footer and foundation design shall be submitted when existing structures (which are designed for human occupation) are to be relocated to a new property.

(b) No permit shall be issued unless the plans and specifications are identified by the name and author thereof.

(Ord. of 5-13-91, § 2; Ord. of 7-17-95; Ord. No. 1999-06, 6-21-99; Ord. No. 2003-04, 3-17-03)

State law reference—Application for building permits, G.S. 153A-357.

Sec. 14-28. Approval of plans.

Such applications with plans and specifications shall be referred to the chief inspector, who shall examine the same to determine whether the proposed construction or alteration will comply with the ordinance provisions relative thereto. The chief inspector shall retain one set of plans and specifications as required by the North Carolina General Statutes. No permit shall be issued until after approval of the plans.

(Ord. of 5-13-91, § 3; Ord. No. 1999-06, 6-21-99; Ord. No. 2003-04, 3-17-03)

Sec. 14-29. Variations.

(a) It shall be unlawful to vary, change, or deviate from the terms of the application, the plans and specifications, or the permit, except if the change or deviation is clearly permissible under the International Building Code (including North Carolina amendments), it may not be made until specific written approval of the proposed change or deviation has been obtained from the public safety services department.

(b) It shall be unlawful to proceed with work on a project after a building, plumbing, heating, insulation, cooling, fire sprinkler, or electrical contractor has been released or dismissed from the job without first obtaining a letter of release from the structure's or building's owner and/or the contractor.

(c) A violation of this section is punishable as a misdemeanor.

(Ord. of 5-13-91, § 4; Ord. of 7-17-95; Ord. No. 1999-06, 6-21-99; Ord. No. 2003-04, 3-17-03; Ord. No. 2021-32, § 4, 12-20-21)

State law reference—Changes in work, G.S. 153A-359.

Sec. 14-30. Additional permit restrictions.

(a) *Discontinued work; expiry.* If, after a permit has been obtained and the work has commenced, the work is discontinued for a period of 12

months, the permit immediately expires. No work authorized by a permit that has expired may thereafter be performed until a new permit has been secured.

(b) *Appeals from determinations of public safety services department.* Unless otherwise provided by law, any appeal from an order, decision, or determination of a member of the public safety services department pertaining to the International Building Code (including North Carolina amendments) or any other state building law shall be taken to the commissioner of insurance or other official specified in G.S. 143-139, by filing a written notice with him and with the public safety services department within ten days after the day of the order, decision, or determination. Further appeals may be taken to the state building code council or to the courts as provided by law.

(c) *Remodeling or repair by property owner.* This article shall apply to all situations where a property owner desires to do remodeling or repair work on his own personal residence. This article is designed to protect the public and the property owner from faulty workmanship and mistakes.

(d) *Testing of unlicensed applicant for work on personal residence.* Whenever any person who is not a licensed contractor applies for a permit for any electrical work on his own personal residence, the applicant shall be given a test by a tester designated by the construction standards department. The test will be written. A person may take the test more than one time but must wait a period of 30 days before testing again. If the test shows that the person is capable of performing the work for which the permit is sought and shows that the applicant is knowledgeable of the state and local building codes, the application shall be considered in the same manner as any other application for permit.

(e) *Article does not give warranty.* Nothing in this article shall be deemed a warranty either as to the ability of any particular person to do a particular job or as to the safety, quality, or suitability of any work which is done. Neither the issuance of a permit nor the inspection and approval of any work shall constitute a warranty.

(f) *Codes do not constitute warranty.* Nothing in a building, plumbing, electrical or heating or cooling code or ordinance, or any other provision relating to construction or alteration of any building or component of a building, shall constitute a warranty or guarantee of any kind relating to a building or component. Neither the issuance of a permit, nor the completion of an inspection, nor a certificate of occupancy shall constitute a warranty or guarantee either that the construction or alteration complies with all applicable laws and ordinances or that it is free of defects or will perform or last in any particular way.

(Ord. of 5-13-91, § 6; Ord. No. 1999-06, 6-21-99; Ord. No. 2003-04, 3-17-03; Ord. No. 2010-05, 6-21-10; Ord. No. 2016-01, 2-15-16)

State law reference—Time limitation on validity of permits, G.S. 153A-358.

Sec. 14-31. Permit fees.

(a) All applicable fees must be paid before a certificate of occupancy is issued.

(b) A reinspection charge shall be assessed for any required subsequent inspections if the contractor, subcontractor, or owner is at fault, thereby necessitating the reinspection.

(c) All permit fees must be paid at the time of application unless the applicant posts a performance security bond. Should a bond be posted, the applicant shall be billed by the public safety services department for the permit.

(d) No permits will be issued under the billing procedure above if the applicant's account is 60 or more days in arrears and not paid in full.

(e) The fee for day care inspections shall be set from time to time and a schedule of such fees is on file in the county offices.

(f) The schedule of fees shall be established for all new construction and is available in the county offices.

(g) All mobile homes are required to have a permit to locate in the county. This permit fee includes the electrical and plumbing hookup

charges. In addition, a plumbing permit fee shall be assessed on all new spaces for all mobile home parks.

(Ord. of 5-13-91, § 7; Ord. of 6-21-93, § 1; Ord. No. 1999-06, 6-21-99; Ord. No. 2003-04, 3-17-03)

Sec. 14-32. Inspections.

(a) The chief inspector shall also serve as codes enforcement officer for the following municipalities: Concord, Harrisburg, Kannapolis, Midland, and Mt. Pleasant.

(b) As the work pursuant to a permit progresses, local codes enforcement officers shall make as many inspections of the work as may be necessary to satisfy them that it is being done according to the provision of the applicable state and local laws and local ordinances and regulations and the terms of the permit. Strings showing outside wall locations and grade markers are required to show depth of concrete. In exercising this power, each member of the public safety services department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(c) The public safety services department shall make periodic inspections, subject to the board of commissioners' directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in buildings within its territorial jurisdiction. In addition, it shall make any necessary inspections when it has reason to believe that such conditions may exist in a particular building. In exercising these powers, each member of the public safety services department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(d) At the conclusion of all work done under a permit, the appropriate codes enforcement officer shall make a final inspection. If he finds that the completed work complies with all applicable state and local laws, local ordinances and regulations and with the terms of the permit, he/she shall issue a certificate of occupancy. No new

building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or removed may be occupied until the public safety services department has issued a certificate of occupancy. A temporary certificate of occupancy may be issued permitting occupancy for a stated period of specified portions of the building that the chief inspector finds may safely be occupied before completion of the entire building. Violation of this subsection constitutes a misdemeanor.

(e) It shall be unlawful to secure permanent electrical power to the premises before a final inspection. A violation of this subsection is punishable as a misdemeanor.
(Ord. of 5-13-91, § 5; Ord. of 7-17-95; Ord. No. 1999-06, 6-21-99; Ord. No. 2003-04, 3-17-03; Ord. No. 2021-32, § 4, 12-20-21)

State law reference—Similar provisions, G.S. 153A-360, 153A-363, 153A-364.

Sec. 14-33. North Carolina Rehabilitation Code adopted.

(a) The North Carolina Rehabilitation Code as enacted by the North Carolina General Assembly and as modified by supplements covering amendments thereto, is hereby adopted by reference as fully as though set forth herein as a supplemental building code for Cabarrus County to the extent such code is applicable.

(b) All ordinances or portions of ordinances in conflict herewith are hereby repealed.

(c) Should any provision of this section be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

(d) This section shall take effect and be in force from and after December 16, 2002.
(Ord. No. 2002-08, 12-16-02)

Sec. 14-34. Appendix G of the International Residential Code (2002 edition) adopted.

(a) The Appendix G of the International Residential Code (2002) edition and as modified by supplements covering amendments thereto, is

hereby adopted by reference as fully as though set forth herein as a supplemental building code for Cabarrus County to the extent such code is applicable.

(b) All ordinances or portions of ordinances in conflict herewith are hereby repealed.

(c) Should any provisions of this section be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the article as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

(d) This section shall take effect and be in force from and after March 17, 2003.
(Ord. No. 2003-04, 3-17-03)

Secs. 14-35—14-50. Reserved.

ARTICLE III. HOUSING CODE*

DIVISION 1. GENERALLY

Sec. 14-51. Purpose of article.

(a) Pursuant to G.S. 160D-1201, it is hereby declared that there exist in the county dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; and other conditions rendering such dwellings unsafe or unsanitary, dangerous, and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the county.

(b) In order to protect the health, safety and welfare of the residents of the county as authorized by part of G.S. 160D-202, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160D-1205.
(Ord. of 2-1-82, § I; Ord. No. 2021-32, § 4, 12-20-21)

***State law reference**—Authority to adopt ordinances requiring minimum housing standards, G.S. 160A-443.

Sec. 14-52. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Basement means a portion of a dwelling which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

Cellar means a portion of a dwelling which is located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below of the adjoining ground.

Deteriorated means that a dwelling may be unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this article at a cost not in excess of 50 percent of its value, as determined by finding of the chief building inspector.

Dilapidated means that a dwelling is unfit for human habitation and cannot be improved, repaired, or altered to comply with all of the minimum standards established by this article, except at a cost in excess of 50 percent of its value, as determined by the chief building inspector.

Dwelling means any building, structure, or part thereof which is wholly or partly used or intended to be used for living, sleeping or habitation by human occupants, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. Temporary housing shall not be regarded as a dwelling. The term shall include within its meaning the terms "roominghouse" and "rooming unit."

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Extermination means the control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food; by poisoning, spraying,

fumigating, or trapping; or by any other recognized and legal pest elimination methods approved by the chief building inspector.

Garbage means the waste resulting from the handling, preparation, cooking and consumption of food.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

Infestation means the presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

Multiple dwellings means any dwelling containing more than two dwelling units.

Occupant means any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling, dwelling unit or rooming unit.

Operator means any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Owner means any person who alone, jointly, or severally with others:

- (1) Shall have title to any dwelling, dwelling unit or rooming unit, with or without accompanying actual possession thereof;
- (2) Shall be a mortgagee of record for any dwelling, dwelling unit or rooming unit; or
- (3) Shall have charge, care or control of any dwelling, dwelling unit or rooming unit, as owner or agent of the actual owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the actual owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Party or parties in interest means all persons who have interests of record in a dwelling, dwelling unit or rooming unit and any persons who are in possession thereof.

Plumbing means and includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinders), sewage disposal pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catchbasins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Public authority means any officer who is in charge of any department or branch of the government of the county or the state relating to health, fire, building regulations or other activities concerning dwellings in the county.

Roominghouse means any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping but not for cooking or eating purposes.

Rubbish means nonfood waste materials. The term shall include items such as: paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass and dust.

Supplied means paid for, furnished, provided by, or under the control of the owner or operator.

Temporary housing means any tent, trailer or other structure used for human shelter, which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

Unfit for human habitation means that conditions exist in a dwelling, dwelling unit, roominghouse, or rooming unit which violate or do not

comply with one or more of the minimum standards of fitness or one or more of the requirements established by this article.

Words having certain meaning. Whenever the words "dwelling, dwelling unit, roominghouse, rooming unit, premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof." (Ord. of 2-1-82, § II)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar definitions, G.S. 160A-442.

Sec. 14-53. Conflict of article with other provisions.

If any provision, standard, or requirement of this article is found to be in conflict with any provision of any other ordinance or code of the county, 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 county shall prevail. (Ord. of 2-1-82, § XX)

Sec. 14-54. Penalty for violation of article.

(a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish and remove the same, upon order of the chief building inspector duly made and served as provided in this chapter, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.

(b) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 14-98, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(c) The violation of any provision of this article shall constitute a misdemeanor, as provided by G.S. 14-4.

(d) In addition to the penalty established by subsection (c) of this section, and the remedies provided by other provision of this article, this article may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

(Ord. of 2-1-82, § XXI)

Secs. 14-55—14-70. Reserved.

DIVISION 2. MINIMUM STANDARDS

Sec. 14-71. Fitness for dwellings and dwelling units.

(a) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 14-72 through 14-77.

(b) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 14-72 through 14-77.

(c) A violation of this section is punishable as a misdemeanor.
(Ord. of 2-1-82, § III; Ord. No. 2021-32, § 4, 12-20-21)

Sec. 14-72. Structural condition.

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

- (1) Walls or partitions or supporting members, sills, joists, rafters, or other structural members shall not list, lean or buckle; shall not be rotten, deteriorated, or damaged; and shall not have holes or cracks which might admit rodents.
- (2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(3) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

(4) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(5) Adequate facilities for egress in case of fire or panic shall be provided.

(6) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(7) The roof, flashings, exterior walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weathertight and watertight.

(8) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

(9) There shall be no use of the ground for floors, or wood floors on the ground.

(Ord. of 2-1-82, § IV)

Sec. 14-73. Basic plumbing, heating and electrical equipment and facilities.

(a) *Plumbing system.* Every dwelling and dwelling unit shall have facilities for providing plumbing in accordance with the following:

- (1) Each dwelling unit should be connected to a potable water supply and to a public sewer or other approved sewage disposal system.
- (2) Each dwelling unit should contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold water and hot water. All

water shall be supplied through an approved pipe distribution system connected to a potable water supply.

- (3) All existing plumbing fixtures shall meet the standards of the state plumbing code and shall be maintained in a state of good repair and in good working order.
- (4) All existing required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of such dwelling unit. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(b) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the following:

- (1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 60 degrees Fahrenheit, measured at a point three feet above the floor during ordinary winter conditions.
- (2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, gas vents or other facilities to which heating appliances may be connected to heat all habitable rooms with a minimum temperature of 60 degrees Fahrenheit, measured three feet above the floor during ordinary winter conditions.

(c) *Electrical system.* Every dwelling and dwelling unit shall have facilities for providing electricity in accordance with the following:

- (1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the state electrical code. There shall be installed in every bathroom, water closet

room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture.

- (2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.
- (3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the state electrical code.

(Ord. of 2-1-82, § V)

Sec. 14-74. Ventilation.

(a) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors unless approved by the chief building inspector.

(b) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device, such as air conditioning, as will adequately ventilate the room.

(c) *Bathroom and water closet rooms.* Every bathroom and water closet room shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(Ord. of 2-1-82, § VI)

Sec. 14-75. Space, use and location.

(a) *Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the state residential building code. Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant. Under this requirement, a family of four persons would need 450 square feet of habitable floor area or the equivalent of a 20-foot by 25-foot dwelling unit. In every dwelling unit

and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and older and at least 35 square feet of floor area for each occupant under 12 years of age.

(b) *Cellar.* No cellar shall be used for living purposes.

(c) *Basements.* No basement shall be used for living purposes unless:

- (1) The floor and walls are substantially watertight;
- (2) Every habitable room shall have at least one window facing directly to the outdoors which can be easily opened. If other ventilation approved by the chief building inspector is provided, the window need not be openable;
- (3) The window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or accessway.

(Ord. of 2-1-82, § VII)

Sec. 14-76. Safe and sanitary maintenance.

(a) *Exterior foundation, walls and roofs.* Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodent-proof; shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

(b) *Interior floors, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodentproof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting load which normal use would cause to be placed thereon.

(c) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight, rodent-proof and shall be kept in sound working condition and good repair.

(d) *Stairs, porches and appurtenances.* Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.

(e) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.

(f) *Supplied facilities.* Every supplied facility, piece of equipment of utility which is required under this division shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(g) *Drainage.* Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.

(h) *Egress.* Every dwelling unit shall be provided with adequate means of egress (exit), as required by the state residential building code.

(Ord. of 2-1-82, § VIII)

Sec. 14-77. Control of insects, rodents, and infestations.

(a) *Screens.* In every dwelling unit for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall be equipped with screens and a self-closing device. If other ventilation, approved by the chief building inspector, is used, doors need not be screened. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be equipped with screens.

(b) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide an entry for rodents shall be equipped with screens or such other approved device as will effectively prevent their entrance.

(c) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodentproof or reasonably insectproof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(d) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish. The owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(e) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an approved outside garbage can or an adequate mechanical garbage disposal unit, mechanical sink grinder, in each dwelling unit. (Ord. of 2-1-82, § IX)

Sec. 14-78. Applicable to roominghouses; exceptions.

All the provisions of this article and all of the minimum standards and requirements of this division shall be applicable to roominghouses, and to every person who operates a roominghouse, or who occupies or lets to another for occupancy and any rooming unit in any roominghouse, except as provided in the following subsections:

(1) *Water closet, hand lavatory and bath facilities.* At least one water closet, lava-

tory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a roominghouse, wherever these facilities are shared. All such facilities shall be located within the residence building served, shall be directly accessible from a common hall or passageway, and shall not be more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(2) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(3) *Sanitary conditions.* The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the roominghouse. He shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the roominghouse is contained is leased or occupied by the operator.

(4) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (1) of this section shall be located within the roominghouse and within rooms which afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the roominghouse or through any other room therein.

(Ord. of 2-1-82, § X)

Sec. 14-79. Responsibilities of owner and occupants.

(a) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(b) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.

(c) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(d) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of such plumbing fixtures.

(e) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit. Willful destruction of the premises by the occupant shall be deemed legal grounds for eviction.

(Ord. of 2-1-82, § XI)

Secs. 14-80—14-95. Reserved.

DIVISION 3. ADMINISTRATION AND ENFORCEMENT

Sec. 14-96. Powers and duties of the chief building inspector.

The chief building inspector is hereby designated as the housing inspector, the officer to enforce the provisions of this article and to exercise the duties and powers prescribed in this section. The chief building inspector shall have the following powers and duties:

- (1) Investigate the conditions, and to inspect dwellings and dwelling units located in the county, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this article with respect to such dwellings and dwelling units;
- (2) Take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
- (3) Keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness prescribed in this article;
- (4) Administer oaths and affirmations, examine witnesses and receive evidence;
- (5) Enter upon premises for the purpose of making examinations and inspections, provided such entries shall be made in accordance with section 14-97 and state law, and shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (6) Appoint and fix, upon approval of the county manager, the duties of such officers, agents, and employees as he deems necessary to assist in carrying out the purposes of this division, and to delegate any of his functions and powers to such officers, agents, and employees; and

- (7) Perform such other duties as may be prescribed in this section or by the board of county commissioners.

(Ord. of 2-1-82, § XII)

Sec. 14-97. Inspections; duty of owners and occupants.

(a) For the purposes of making inspections, the chief building inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming-houses, rooming units, and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, roominghouse or rooming unit, or the person in charge thereof, shall give the chief building inspector free access to such dwelling, dwelling unit, roominghouse or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination and survey.

(b) Every occupant of a dwelling, dwelling unit, roominghouse or rooming unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.

(c) A violation of this section is punishable as a misdemeanor.
(Ord. of 2-1-82, § XIII; Ord. No. 2021-32, § 4, 12-20-21)

Sec. 14-98. Procedure for enforcement.

(a) *Preliminary investigation; notice; hearing.* Whenever a verified petition is filed with the chief building inspector by a public authority or by at least five residents of the county, at least 18 years of age, charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the chief building inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such

dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the chief building inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to correct the violation, to file an answer to the complaint, and to appear in person or send a representative and give testimony at the place and time fixed in the complaint. Notice of such hearing shall be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the chief building inspector.

(b) *Procedure after hearing.* After such notice and hearing, the chief building inspector shall state in writing his determination whether the dwelling or dwelling unit is unfit for human habitation and, if so, whether it is deteriorated or dilapidated, and shall issue and serve orders regarding deterioration or dilapidation as follows:

- (1) If the chief building inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.
- (2) If the chief building inspector determines that the dwelling is dilapidated, he shall state in writing his finding of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter or improve such dwelling or dwell-

ing unit to comply with the minimum standards of fitness established by this article, or else to vacate and demolish and remove the dwelling or dwelling unit within 90 days. Such order may also direct and require the owner to vacate and close such within 30 days.

(c) *Failure to comply with order.* Failure to comply shall result in the following:

- (1) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the chief building inspector to repair, alter, or improve or to vacate and close same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the chief building inspector to repair, alter, or improve or to vacate and close and remove or demolish and remove same within the time specified therein, the chief building inspector shall submit to the board of county commissioners at their next regular meeting a resolution directing the county attorney to petition the superior court for an order directing such owner to comply with the order of the chief building inspector, as authorized by G.S. 160D-1208(e).
- (2) *In rem remedy.* After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the chief building inspector within the time specified therein, if injunctive relief has not been sought or has not been granted, as provided in the subsection (1) of this section, the chief building inspector shall submit to the board of county commissioners an ordinance ordering the chief building inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished and removed, as provided in the original order of the chief building inspector, and pending removal or demolition and removal, to place a placard on such dwelling as provided by G.S. 160D-1203.

(d) *Appeals from orders of the chief building inspector.* An appeal from any decision or order of the chief building inspector may be taken by any person aggrieved thereby. Any appeal from the chief building inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the chief building inspector and with the planning and zoning commission, serving as the zoning board of adjustment, a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the chief building inspector shall forthwith transmit to the commission all the papers constituting the record upon which the decision appealed from was made. When the appeal is from a decision of the chief building inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is from a decision of the chief building inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the commission, unless the chief building inspector certifies to the commission, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate, a copy of which shall be furnished the person who is appealing, a suspension of his requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except for due cause shown upon not less than one day's written notice to the chief building inspector, by the commission, or by a court of record upon petition made pursuant to G.S. 160D-1208(d) and subsection (e) of this section. The commission shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The commission may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the chief building inspector, but the concurring vote of 80 percent of the members of the commission shall be necessary to reverse or modify any decision or order of the chief building

inspector. The commission shall have power also in passing upon appeals, in the case where there are practical difficulties or unnecessary hardships in a way of 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. Every decision of the commission shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the commission, but not otherwise.

(e) *Petition to superior court by owner.* Any person aggrieved by an order issued by the chief building inspector or a decision rendered by the commission shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining chief building inspector pending a final disposition of the cause, as provided by G.S. 160D-1208(d). (Ord. of 2-1-82, § XIV; Ord. of 10-20-86, § 1; Ord. No. 2021-32, § 4, 12-20-21)

Sec. 14-99. Methods of service of complaints and orders.

Complaints or orders issued by the chief building inspector shall be served upon persons either personally or by registered or certified mail. If the whereabouts of such persons are unknown and their whereabouts cannot be ascertained by the chief building inspector in the exercise of reasonable diligence, the chief building inspector shall make an affidavit to that effect, and the servicing of such complaint or order upon such person may be made by publishing the complaint or order once each week for two successive weeks in a newspaper having general circulation in the county. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order. (Ord. of 2-1-82, § XV)

Sec. 14-100. In rem action by chief building inspector; placarding.

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the chief building inspector issued pursuant to the provisions of this article, and upon adoption by the board of county commissioners of an ordinance authorizing and directing him to do so, as provided by G.S. 160D-1203(5) and section 14-98(c), the chief building inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished and removed, as directed by the ordinance of the board of county commissioners. The chief building inspector shall, immediately upon adoption of such ordinance, cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.

(b) Each ordinance shall be recorded in the office of the register of deeds of the county, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160D-1203(5). (Ord. of 2-1-82, § XVI; Ord. No. 2021-32, § 4, 12-20-21)

Sec. 14-101. Costs; a lien on premises.

As provided by G.S. 160D-1203(7), the cost of any repairs, alterations or improvements, or of vacating and closing, or removal or demolition and removal, caused to be made or done by the chief building inspector pursuant to section 14-100 shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have priority, and be collected in the same manner as the lien for special assessments established by G.S. 160A-216 et seq. (Ord. of 2-1-82, § XVII; Ord. No. 2021-32, § 4, 12-20-21)

Sec. 14-102. Alternate remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the county to define and declare nuisances as authorized by G.S. 14-4 and section 14-53 and the enforcement of any remedy provided

in this section shall not prevent the enforcement of any other remedy or remedies provided in this section or in other ordinances or laws.
(Ord. of 2-1-82, § XVIII)

Sec. 14-103. Planning and zoning commission, serving as the zoning board of adjustment, to hear appeals.

(a) All appeals which may be taken from decisions or orders of the chief building inspector pursuant to section 14-98(d) shall be heard and determined by the planning and zoning commission, serving as the zoning board of adjustment. As the appeals body, the commission shall have the power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The commission shall perform the duties prescribed by section 14-98(d) and shall keep an accurate record of all its proceedings.

(b) The commission shall consist of nine members and three alternates to serve for three-year staggered terms who shall be appointed by the board of county commissioners. No member shall serve more than two full consecutive terms. Any member who fails to attend at least 75 percent of the regular and special meetings and hearings held by the commission during any one-year period shall be automatically removed from the commission. Vacancies resulting from a member's failure to attend the required number of meetings and hearings shall be filled by the same method as provided for appointments.
(Ord. of 2-1-82, § XIX)

Chapters 15–17

RESERVED

Chapter 18

BUSINESSES*

Article I. In General

Secs. 18-1—18-25. Reserved.

Article II. Massage Parlors

Division 1. Generally

Sec. 18-26. Purpose of article.
Sec. 18-27. Definitions.
Sec. 18-28. Reserved.
Sec. 18-29. Hours of operation.
Sec. 18-30. Restrictions concerning minors.
Sec. 18-31. Massage by person of opposite sex.
Sec. 18-32. Massage of private parts for hire.
Sec. 18-33. Annual privilege licenses required.
Secs. 18-34—18-50. Reserved.

Division 2. Licenses

Subdivision I. In General

Sec. 18-51. Employer to use only licensed employees.
Sec. 18-52. Posting of licenses.
Sec. 18-53. Notice and hearing.
Secs. 18-54—18-70. Reserved.

Subdivision II. Business License

Sec. 18-71. Licensing of massage business operators.
Secs. 18-72—18-90. Reserved.

Subdivision III. Massagist License

Sec. 18-91. Licensing of massagists.

***Cross reference**—Amusements and entertainments, ch. 6.

State law references—Authority to regulate and license businesses, trades, etc., G.S. 153A-134; privilege license taxes, G.S. 153A-152 et seq.

ARTICLE I. IN GENERAL**Secs. 18-1—18-25. Reserved.****ARTICLE II. MASSAGE PARLORS*****DIVISION 1. GENERALLY****Sec. 18-26. Purpose of article.**

To protect 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 of carrying on of the 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 article 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 or chiropractor in connection with the practice of medicine, chiropractic or osteopathy. (Ord. of 8-4-77, § 1)

Sec. 18-27. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business or profession of massage means and includes the massage or treatment of any person for a fee or in expectation of a gratuity from the person massaged.

Massage means the manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping by hand or mechanical device.

Massage business means any establishment or business wherein massage is practiced, includ-

*State law reference—Adult establishments, G.S. 14-202.10 et seq.

ing establishments commonly known as health clubs, physical culture studios, and massage studios or parlors.

Massagist means any person engaged in the business or profession of massage. (Ord. of 8-4-77, § 2)

Cross reference—Definitions generally, § 1-2.

Sec. 18-28. Reserved.

Editor's note—Ord. No. 2021-32, § 5, adopted Dec. 20, 2021, repealed § 18-28, which pertained to penalty for violation of article and derived from Ord. of 8-4-77, § 13.

Sec. 18-29. Hours of operation.

(a) No person licensed as a massagist under section 18-91 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 licensed under section 18-71 shall admit customers or prospective customers, remain open for business, or allow or 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.

(d) A violation of this section is punishable as a misdemeanor. (Ord. of 8-4-77, § 8; Ord. No. 2021-32, § 5, 12-20-21)

Sec. 18-30. Restrictions concerning minors.

(a) No person licensed as a masseur or masseuse under section 18-91 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

subsection shall be grounds for revocation of any license issued to such violator pursuant to this article.

(b) No person licensed under section 18-71 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 subsection shall be grounds for revocation of any license issued to such violator pursuant to this article.

(c) No person licensed pursuant to section 18-71 shall employ any person under the age of 18 years in the operation of a massage business.

(d) A violation of this section is punishable as a misdemeanor.
(Ord. of 8-4-77, § 9; Ord. No. 2021-32, § 5, 12-20-21)

Cross reference—Minors in pool rooms, § 6-30.

Sec. 18-31. Massage by person of opposite sex.

(a) It shall be unlawful for any person licensed pursuant to section 18-71 to knowingly provide, allow or permit a massage or treatment to be given by a person to a person of the opposite sex.

(b) It shall be unlawful for any person licensed as a massagist under section 18-91 to massage or treat a person of the opposite sex.
(Ord. of 8-4-77, § 10)

Sec. 18-32. Massage of private parts for hire.

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 chiroprac-

tors, or persons operating at their discretion in connection with the practice of medicine, chiropractic, or osteopathy.
(Ord. of 8-4-77, § 11)

Sec. 18-33. Annual privilege licenses required.

The licenses required under this article are annual privilege licenses. Such licenses shall be due and payable in the same manner as prescribed for other privilege licenses issued by the county.
(Ord. of 8-4-77, § 12)

Secs. 18-34—18-50. Reserved.

DIVISION 2. LICENSES

Subdivision I. In General

Sec. 18-51. Employer to use only licensed employees.

No person licensed under section 18-71 shall allow or permit any person to massage or treat any person upon the premises operated by the licensee unless the person giving such massage or treatment has complied with all requirements of licensing under section 18-91, including periodic medical examinations by a licensed physician. Violation of this section shall be grounds for revocation of the license to such violator pursuant to this division.
(Ord. of 8-4-77, § 5)

Sec. 18-52. Posting of licenses.

(a) Every massagist shall post the license required by this division in his work area.

(b) Every person licensed under section 18-71 shall display such license in a prominent place.
(Ord. of 8-4-77, § 6)

Sec. 18-53. Notice and hearing.

Before the board of county commissioners revokes a license issued pursuant to this division, or if the board of county commissioners determines reasonable grounds exist to deny an application for a license pursuant to this division, the board of county commissioners 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. This notice shall advise the affected party of a right to appear before the board of county commissioners 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.

(Ord. of 8-4-77, § 7)

Secs. 18-54—18-70. Reserved.

Subdivision II. Business License

Sec. 18-71. Licensing of massage business operators.

(a) No person shall operate a massage business, unless such person shall have first applied for and received the privilege license provided by this section. A violation of this subsection is punishable as a misdemeanor.

(b) Every application for the privilege license prescribed in this section shall be upon a form approved by the county manager and shall be filed with the county 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 such person. If the applicant is a partnership, corporation or association, the registered name of the agent, the address of the registered office, and 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 person whose name is required to be given in subsection (b)(1) of this section for any felony or prostitution or any violation of the 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 subsection (b)(1) of this section;

- (5) A complete statement of any conviction of any person whose name is required to be given in subsection (b)(1) of this section for violation of any statute, law ordinance 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 subsection (b)(1) of this section wherein the business or profession of massage is carried on; and
- (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 county clerk shall transmit a copy of the application to the sheriff's department for an investigative report and to the planning, zoning and building inspection department to determine compliance with all zoning and building regulations and ordinances. The sheriff's department shall, within a reasonable time, not to exceed 45 days, report the results of their examination to the county clerk.

(d) An application in proper form, accompanied by all reports required by this section, shall be submitted to the board of county commissioners, which shall approve such application if the board of county commissioners determines that:

- (1) The application contains no misstatement of fact.
- (2) The applicant, or any person having 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 (offenses against public morality and decency) and G.S. 14-203 through G.S. 14-208 (prostitution), or of any federal statute relating to prostitution or of any violation of any law or

ordinance of any governmental unit concerning or related to the business or profession 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-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 board of county commissioners and upon receipt of the current license fee, the county tax collector shall issue a privilege license to the applicant.

(f) A license issued pursuant to this section shall be revoked by action of the board of county commissioners if the board of county commissioners determines that:

- (1) The licensee has violated any provisions of this article;
- (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 section 18-91, or whose license under section 18-91 has been revoked;
- (3) The licensee or the legal or beneficial owner of any 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 (offenses against public morality and decency) and G.S. 14-203 through G.S. 14-208 (prostitution);
- (4) Any employee of the licensee is convicted of any felony in connection with his 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 (offenses against public morality and decency) and G.S. 14-203 through G.S. 14-208 (prostitution); or

- (5) The licensee violates any zoning, building, or fire prevention ordinance.

(g) A license issued pursuant to this subdivision 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 section 18-71.

(Ord. of 8-4-77, § 3; Ord. No. 2021-32, § 5, 12-20-21)

Secs. 18-72—18-90. Reserved.

Subdivision III. Massagist License

Sec. 18-91. Licensing of massagists.

(a) *License required.* No person shall engage in the business or profession of massage, unless such person shall have first applied for and received the privilege license provided by this section.

(b) *Application.* The application for the license required by this section shall be upon a form approved by the county manager and shall be filed with the county clerk. Such application shall be given under oath and shall contain the following information:

- (1) The name, age and residence address of the applicant.
- (2) A complete statement of the previous business or occupation of the applicant for the two years immediately preceding the date of application, including any massage establishment experience.
- (3) A complete statement of all convictions of the applicant for any felony or 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 years immediately preceding the date of application.

(c) *Additional application requirements.* The applicant shall submit, as part of the application required in subsection (b) of this section, the following:

- (1) Fingerprints of the applicant taken by the sheriff's department;
- (2) Two recent photographs of the applicant's head and shoulders of a size and quality prescribed by the county manager; and
- (3) A medical certificate signed by a physician licensed to practice in the state within seven days of the date of the application. The certificate shall state that the applicant was examined by the certifying physician and that the applicant is free from communicable disease.

The additional information required by this subsection (c) shall be provided at the applicant's expense.

(d) *Investigative report by sheriff.* The county clerk shall transmit a copy of the application to the sheriff's department for an investigative report. The sheriff's department shall, within a reasonable time, not to exceed 45 days, report the results of its investigation to the county clerk.

(e) *Submission of application to board.* An application in proper form shall be submitted to the board of county commissioners, together with all reports required by this section. The board of county commissioners shall approve such application if the board of county commissioners determines that:

- (1) 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 (offenses against

public morality and decency) and G.S. 14-203 through G.S. 14-208 (prostitution or of any federal statute relating to prostitution), or the violation of any law or ordinance of any governmental unit concerning or related to the business or profession of massage revoked;

- (4) The applicant has not, for the three-year period preceding the application, had a previously issued license for engaging in the business or profession of massage revoked;
- (5) The applicant is free from communicable disease as evidenced by the medical certificate required in subsection (c)(3) of this section; and
- (6) The applicant has not been previously convicted of any violation of any provision of this division.

(f) *Approval; fee.* Upon approval of the application by the board of county commissioners and upon receipt of the current license fee, the county tax collector shall issue a privilege license to the applicant.

(g) *Medical exam of licensee.* The board of county commissioners shall have authority to direct that any person licensed under this section submit to a medical examination by a licensed physician approved by the board of county commissioners. This authority shall be exercised only when the board of county commissioners has reason to believe that any such person has contracted a communicable disease. Refusal to submit to such examination shall be grounds for revocation of such license, as provided in subsection (h) of this section. Notwithstanding the provisions of this subsection, every person licensed under this section shall file and continue to file with the county clerk a new medical certificate with each 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) *Revocation.* A license issued pursuant to this section shall be revoked by action of the board of county commissioners if the board of county commissioners determines that:

- (1) The licensee has violated any provision of this article;
 - (2) The licensee is afflicted with a communicable disease;
 - (3) The licensee has failed to be examined by a licensed physician when required by the board of county commissioners pursuant to subsection (g) of this section, or has failed to file any medical certificate required by such subsection (g); or
 - (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 (offenses against public morality and decency) and G.S. 14-203 through G.S. 14-208 (prostitution), or under any federal statute relating to prostitution or for violation of any laws or ordinance of any governmental unit related to the business or profession of massage.
- (Ord. of 8-4-77, § 4)

Chapter 19

RESERVED

Chapter 20

CABLE TELEVISION*

Article I. In General

- Sec. 20-1. Purpose.
- Sec. 20-2. Title of ordinance.
- Sec. 20-3. Definitions.
- Secs. 20-4—20-20. Reserved.

Article II. Grant of Franchise

- Sec. 20-21. Grant.
- Sec. 20-22. Franchise area.
- Sec. 20-23. Use of public rights-of-way.
- Sec. 20-24. Use of county facilities.
- Sec. 20-25. Use of grantee system.
- Sec. 20-26. Franchise required.
- Sec. 20-27. Term of franchise.
- Sec. 20-28. Franchise non-exclusive.
- Sec. 20-29. Time is of the essence to this chapter.
- Sec. 20-30. Law governs.
- Sec. 20-31. Severability.
- Sec. 20-32. Transfer of ownership or control.
- Sec. 20-33. Franchise renewal.
- Sec. 20-34. Police powers.
- Sec. 20-35. Franchise fees.
- Sec. 20-36. Forfeiture or revocation.
- Sec. 20-37. Receivership and foreclosure.
- Sec. 20-38. Equal opportunity policy.
- Sec. 20-39. Notices.
- Sec. 20-40. Failure of county to enforce this chapter, no waiver of the terms thereof.
- Sec. 20-41. Rights reserved to the grantor.
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- Secs. 20-43—20-50. Reserved.

Article III. Regulation of Franchise

- Sec. 20-51. Regulatory authority.
- Sec. 20-52. Supervision of the franchise.
- Sec. 20-53. Rates and charges.
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- Secs. 20-55—20-60. Reserved.

Article IV. Bonds, Insurance, and Indemnification

- Sec. 20-61. Performance bond.
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*Cross reference—Streets, sidewalks and other public places, ch. 62.

CABARRUS COUNTY CODE

Article V. Design and Construction Provisions

- Sec. 20-71. Authority to construct.
- Sec. 20-72. Construction and technical standards.
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Article VI. Service Provisions

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- Sec. 20-82. Installations, connections, and other grantee services.
- Sec. 20-83. Service calls and complaint procedures.
- Sec. 20-84. Continuity of service mandatory.
- Sec. 20-85. Protection of subscriber privacy.
- Sec. 20-86. Rights of individuals.
- Secs. 20-87—20-90. Reserved.

Article VII. Books, Records, and Reports

- Sec. 20-91. Books and records available to the grantor.
- Sec. 20-92. Reports required.
- Sec. 20-93. Records required.
- Secs. 20-94—20-100. Reserved.

Article VIII. Miscellaneous Provisions

- Sec. 20-101. Public notice.
- Sec. 20-102. Captions.
- Sec. 20-103. Franchise applications.
- Secs. 20-104—20-110. Reserved.

Article IX. Basic Service Tiers, Related Equipment, installation and Service Provisions

- Sec. 20-111. Rate filing and review of rates by franchising authority.
- Sec. 20-112. Public inspection of rate filings; consideration of the views of interested parties.
- Sec. 20-113. Authority of county manager to implement FCC rate regulations.
- Sec. 20-114. Proprietary information.

ARTICLE I. IN GENERAL

Sec. 20-1. Purpose.

The County of Cabarrus finds that the development of a cable television system has the potential of having great benefit and impact upon the people of Cabarrus. Because of the complex and rapidly changing technology associated with cable television, the county further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers which should be vested in the county or such persons as the county shall designate. It is the intent of this chapter and subsequent amendments to provide for and specify the means to attain the best possible public interest and public purpose in these matters and any franchise issued pursuant to this chapter shall be deemed to include this finding as an integral part thereof.

Further, it is recognized that cable television systems have the capacity to provide not only entertainment and information services to the county's residents, but can provide a variety of broadband, interactive communications services to institutions and individuals. Many of these services involve county agencies and other public institutions, by providing governmental, educational or health care communications.

For these purposes, the following goals underlie the regulations contained herein:

- 1) Cable services should be provided to the maximum number of county residents.
- 2) The system should be capable of accommodating both the present and reasonably foreseeable future communications needs of the county.
- 3) The system should be improved and upgraded during the franchise term.
- 4) The cable system authorized by this chapter shall be responsive to the needs and interests of the local community, and shall provide the widest possible diversity of information sources and services to the public.

- 5) That the public, educational and governmental needs for access to the cable television system are met.

(Ord. No. 1998-05, art. I, 2-16-98)

Sec. 20-2. Title of ordinance.

This chapter shall be known and may be cited as "Cabarrus County Cable Television Ordinance," and it shall become a part of the ordinances of the county. This chapter shall take effect and be in force from and after its adoption. All ordinances or parts of ordinances in conflict with the provisions of this chapter are hereby repealed.

(Ord. No. 1998-05, art. II, 2-16-98)

Sec. 20-3. Definitions.

For the purpose of this chapter the following terms, phrases, words and their derivations 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 the singular number. The word "shall" is mandatory and the word "may" is permissive. Words not defined shall be given their common and ordinary meaning.

Basic service means a separately available tier to which subscription is required for access to any other tier of service. Such tier shall, at a minimum, consist of the following: all signals carried in fulfillment of Cable Act, Sections 614 and 615; any public, educational, and governmental access programming required in this chapter or the franchise; any signal of any television broadcast station that is provided by the cable operator to any subscriber, except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station. Additional signals may be added to the basic tier by the grantee.

Board means the board of county commissioners.

Cable television system, also referred to as "system," means the cable television system constructed for use within the county, without limitation, the headend, antennae, cables, wires, lines, towers, amplifiers, converters, health and property security systems, equipment or facilities lo-

cated within the corporate limits of the county designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable, fiber optics, microwave or other means, audio and visual radio, television and electronic signals to and from subscribers in the county, and any other equipment or facilities located within the corporate limits of the county intended for the use of the system; provided, however, such system facility excludes buildings, contracts, facilities, and equipment where primary use is for providing service to other systems located outside the county limits. Such term does not include: (A) a facility that serves only to re-transmit the television signals of one or more television broadcast stations; (B) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public rights-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provision of Title II of the Cable Act, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or (D) any facilities of any electric utility used solely for operating its electric utility systems.

Cablecast signal means a non-broadcast signal that originates within the facilities of the cable television system.

Channel means a six megahertz (MHZ) frequency band, which is capable of carrying either one standard video signal, a number of audio, digital or other non-video signals or some combination of such signals. One channel of high definition television will utilize more than six MHz.

Commercial subscriber means a subscriber who receives a service in a place of business where the service may be utilized in connection with a business, trade or profession.

Communications Policy Act or Cable Act means the Communications Act of 1934; Communications Policy Act of 1984; the Cable Television Consumer Protection and Competition Act of 1992; and the Telecommunications Act of 1996 as they may be amended or succeeded from time to time.

Converter means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and any channel selector which permits a subscriber to view all signals delivered at designated converter dial locations at the set or by remote control.

Discrete channel shall mean a channel which can only be received by the person and/or institution intended to receive signals on such channel.

Drop shall mean a coaxial connection from feeder cable to the subscriber/user television set, radio or other terminal.

Educational access channel means any channel designated for non-commercial educational access use.

Fair market value means the price that a willing buyer would pay to a willing seller for a going concern based on the system valuation prevailing in the industry at the time.

FCC means the Federal Communications Commission and any legally appointed successor.

Franchise means the nonexclusive rights granted pursuant to this chapter to construct, operate and maintain a cable television system along the public ways within all or a specified area in the county. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the county as required by other ordinances and laws of the county.

Franchise area means the entire county, or portions thereof, for which a franchise is granted under the authority of this chapter. If not otherwise stated in the franchise, the franchise area shall be the corporate limits of the county, including all territory thereafter annexed to the county.

Franchise fee means the percentage, as specified by the county, of the franchisee's gross annual revenues in exchange for the rights granted pursuant to this chapter and the franchise agreement.

Franchisee or grantee means the natural person(s), partnership(s), domestic and foreign cor-

poration(s), association(s), joint venture(s), or organization(s) of any kind which has been legally granted a franchise by the county, and its lawful successor, transferee or assignee.

Government access channel means any channel specifically designated or dedicated for non-commercial government access use.

Grantor means the County of Cabarrus as represented by the board of county commissioners acting within the scope of its jurisdiction.

Gross annual revenues means all revenue collected annually directly or indirectly from the franchise area by the grantee, and/or all revenue collected by grantee's affiliates, subsidiaries, and any person in which the grantee has a financial interest from or in connection with the operation of the cable system. The gross revenues do not include any tax, fee, or assessment of general applicability (including any such tax, fee or assessment imposed on both utilities and cable operators or their services, but not including a tax, fee or assessment which is unduly discriminating against cable operators or cable subscribers). Franchise fees shall not be paid twice on gross annual revenues from the sale of any merchandising or programming on a programming service owned in whole or in part by the grantee, its affiliates, subsidiaries and any person in which the grantee has a financial interest. For example, assuming that grantee has an interest in a programming service (i.e., XYZ) which is a national home shopping service, grantee would pay a franchise fee on any commission or fee received by grantee for the transaction, but XYZ service would not pay a franchise fee on the revenues received from a Cabarrus transaction.

Installation shall mean the connection of the system from feeder cable to subscribers' terminals.

Leased access channel, or commercial access channel means any channel designated or dedicated for use by persons unaffiliated with the grantee, at rates which are in accordance with applicable law.

Local programming channel means a channel designated for local programming programmed by the grantee.

Monitoring means observing a communications signal, or the absence of a signal, where the observer is not a party to the communication, whether the signal is observed by visual or electronic means, for any purpose whatsoever.

Narrowcasting shall mean the ability to distribute cable programming to a particular segment or segments of the cable subscribers.

Non-commercial means access channel use in a manner similar to Public Broadcasting Service station programming and underwriter acknowledgments and telecourses being offered for a fee by non-profit educational institutions or governments.

Person means an individual, partnership, association, organization, corporation or any lawful successor transferee of said individual, partnership, association, organization or corporation.

Plant mile means a linear mile of cable as measured on the street or easement from pole to pole or pedestal to pedestal. In cases where cable is on both sides of the street, only the cable on one side of the street will be utilized in measuring a plant mile.

Public access channel means any channel designated or dedicated for use by the general public or non-commercial organizations which is made available for use without charge on a nondiscriminatory basis in accordance with the rules and regulations specified in the franchise.

Public way or public rights of way means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkways, waterways, utility easements or other public right-of-way now or hereafter held by the county which shall entitle the county and the company to the use thereof for the purpose of installing and maintaining the company cable television system. No reference herein, or in any franchise, to the "public way" shall be deemed to be a representation or guarantee by the county that its title to any property is sufficient to permit its use for such purpose, and the grantee shall, by its use of such terms, be

deemed to gain only such rights to use property in the county as the county may have the undisputed right and power to give.

Reasonable notice shall be written notice addressed to the grantee at its principal office or such other office as the grantee has designated to the county as the address to which notice shall be transmitted to it, which notice shall be certified and postmarked not less than seven days prior to that day in which the party giving such notice shall commence any action which requires the giving of notice. In computing said seven days, holidays recognized by the county shall be excluded.

Resident means any person residing in the county as otherwise defined by applicable law.

Residential subscriber means a subscriber who receives a service in an individual dwelling unit where the service is not to be utilized in connection with a business, trade or profession.

Sale shall include any sale, exchange, barter or offer for sale.

School means any public or non-profit educational institution including primary and secondary schools, colleges and universities, both public and private.

Service area means the entire geographic area within the franchise territory.

State means the State of North Carolina.

Transfer means the disposal by the grantee, directly or indirectly, by gift, assignment, voluntary sale, merger, consolidation or otherwise, of 25 percent or more at one time of the ownership or controlling interest in the system, or 50 percent cumulatively over the term of the franchise of such interests to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert, affiliate transfers excepted.

Trunk line means the major distribution cable used in cable communications, which divides into feeder lines which are tapped for service to subscribers.

Upstream signal means a signal originating from a terminal to another point in the cable

television system including video, audio or digital signals for either programs or other uses such as security alert services, etc.

User means a person or organization utilizing channel or equipment and facilities for purpose of producing and/or transmission of material, as contrasted with receipt thereof in a subscriber capacity.

(Ord. No. 1998-05, art. III, 2-16-98)

Secs. 20-4—20-20. Reserved.

ARTICLE II. GRANT OF FRANCHISE

Sec. 20-21. Grant.

(a) *Grant*. In the event that county shall grant to the grantee a nonexclusive, revocable franchise to construct, operate, and maintain a cable television system within the county, said franchise shall constitute both a right and an obligation to provide the services of a cable television system as regulated by the provisions of this chapter and the franchise.

(b) *Event of conflict*. The franchise shall be granted under the terms and conditions contained herein, consistent with the county's charter and/or other applicable statutory requirements. In the event of conflict between the terms and conditions of this chapter, the franchise, or the terms and conditions on which the county can grant a franchise, the charter and/or statutory requirements shall control.

(c) *General county ordinances*. Any franchise granted by the county is hereby made subject to the general ordinance provisions now in effect and hereafter made effective. Nothing in the franchise shall be deemed to waive the requirements of the various codes and ordinances of the county regarding permits, fees to be paid, or manner of construction.

(Ord. No. 1998-05, art. IV, § 4.1, 2-16-98)

Sec. 20-22. Franchise area.

The franchise area shall be the entire county, or portions thereof, for which a franchise is granted. (Ord. No. 1998-05, art. IV, § 4.2, 2-16-98)

Sec. 20-23. Use of public rights-of-way.

For the purpose of operating and maintaining a cable television system in the county, the grantee may erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the public streets and ways within the county such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary to the operation of the cable television systems, provided, however, that grantee complies with all design, construction, safety, and performance provisions contained in this chapter, the franchise agreement, and other applicable local ordinances. Prior to placing any facilities on county poles or in county conduit, the grantee shall obtain separate pole use agreements from the county.

(Ord. No. 1998-05, art. IV, § 4.3, 2-16-98)

Sec. 20-24. Use of county facilities.

The grantee may, with the agreement of the county, use county-owned conduit or other facilities for any portion of its cable television system. The consideration for the use of county conduit or other facilities shall be as stated in a contract for such usage. A fair and reasonable fee for the use of county facilities shall be established in a contract for such usage, and may be adjusted at the periodic performance evaluations. The county shall indemnify and hold grantee harmless from any claim or action found to be caused by the intentional or negligent act or omission of county, its employees, agents, or subcontractors.

(Ord. No. 1998-05, art. IV, § 4.4, 2-16-98)

Sec. 20-25. Use of grantee system.

No poles shall be erected by the grantee without prior approval of the county with regard to location, height, type and any other pertinent aspect. However, no location of any pole of the grantee shall be a vested right and such poles shall be removed or modified by the grantee at its own expense whenever the county determines that the public convenience would be enhanced thereby. Grantee shall utilize existing poles and conduits, where possible. The county shall have

the right, during the life of the franchise, to install and maintain free of charge upon the poles owned by the grantee, any wire and pole fixtures that do not unreasonably interfere with the cable system operations of the grantee. The county shall indemnify and hold the grantee harmless from any claim or action found to be caused by the intentional or negligent act or omission of county, its employees, agents, or subcontractors.

(Ord. No. 1998-05, art. IV, § 4.5, 2-16-98)

Sec. 20-26. Franchise required.

No cable television system shall be allowed to occupy or use the streets of the county or be allowed to operate without a franchise. A violation of this section is punishable as a misdemeanor. (Ord. No. 1998-05, art. IV, § 4.6, 2-16-98; Ord. No. 2021-32, § 6, 12-20-21)

Sec. 20-27. Term of franchise.

The term of any franchise granted pursuant to this chapter shall be stated in the franchise.

(Ord. No. 1998-05, art. IV, § 4.7, 2-16-98)

Sec. 20-28. Franchise non-exclusive.

Any franchise granted pursuant to this chapter shall be nonexclusive. The county specifically reserves the right to (i) grant at any time such additional franchises for a cable television system as it deems appropriate, and/or (ii) build, operate, and own such cable communication system or systems as it deems appropriate. Provided, however, no such franchise shall be granted on terms or conditions more favorable or less burdensome than those imposed upon any existing franchisee.

(Ord. No. 1998-05, art. IV, § 4.8, 2-16-98)

Sec. 20-29. Time is of the essence to this chapter.

Whenever the agreement shall set forth any time for an act to be performed by or on behalf of the grantee, such time shall be deemed of the essence and any failure of the grantee to perform within the time allotted shall always be suf-

ficient ground for the county to invoke an appropriate penalty including possible revocation of the franchise.

(Ord. No. 1998-05, art. IV, § 4.9, 2-16-98)

Sec. 20-30. Law governs.

In any controversy or dispute under this chapter, the law of the State of North Carolina shall apply.

(Ord. No. 1998-05, art. IV, § 4.10, 2-16-98)

Sec. 20-31. Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter or the franchise is for any reason held invalid or unconstitutional by any court of competent jurisdiction, or by any federal, state, or local statute or regulation, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(Ord. No. 1998-05, art. IV, § 4.11, 2-16-98)

Sec. 20-32. Transfer of ownership or control.

(a) *Transfer of franchise.* Any franchise granted hereunder shall not be sold, transferred, leased, assigned or disposed of, including but not limited to, transfer by force or voluntary sale, merger, consolidation, receivership or other means, nor shall the control of the grantee be changed, without the prior consent of the county, and then only under such conditions reasonably related to the qualifications of the assignee and or related to the applicant's capability to meet the requirements of the franchise and this chapter, and as the county may establish.

(b) *Transfer threshold.* The grantee shall promptly notify the county of any actual or proposed change in, or transfer of, or acquisition by any other party of, control of the grantee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the disposal by the grantee, directly or indirectly, by gift, assignment, voluntary sale, merger, consolidation or

otherwise, of 25 percent or more at one time of the ownership or controlling interest in the system, or 50 percent cumulatively over the term of the franchise of such interests to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert.

(c) *County approval.* Every change, transfer, or acquisition of control of the grantee shall make the franchise subject to cancellation unless and until the county shall have consented thereto, which consent will not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the county may inquire into the legal, financial, character, technical and other public interest qualifications of the prospective controlling party, and the grantee shall assist the county in any such inquiry. Failure to provide all information reasonably requested by the county as part of said inquiry may be grounds for denial of the proposed change, transfer or acquisition of control as provided herein or by federal laws and regulations.

(d) *Assumption of control.* The county agrees that any financial institution having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the county that it or its designees satisfactory to the county will take control and operate the cable television system. Further, said financial institution shall also submit a plan for such operation that will insure continued service and compliance with all franchise obligations during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the system for a period exceeding one year, unless extended by the county at its discretion and during said period of time it shall have the right to petition for transfer of the franchise to another grantee. If the county finds that such transfer, after considering the legal, financial, character, technical and other public interest qualifications of the applicant are satisfactory, the county will transfer and assign the rights and obligations of such franchise as in the public interest. The consent of the county to such transfer shall not be unreasonably withheld.

(e) *No waiver of county property rights.* The consent or approval of the county to any transfer of the grantee shall not constitute a waiver or release of the rights of the county in and to the streets, and any transfer shall, by its terms, be expressly subject to the terms and conditions of this chapter and the franchise.

(f) *Transfer time periods.* In the absence of extraordinary circumstances, the county will not approve any transfer or assignment of the franchise prior to completion of initial construction of the proposed system.

(g) *Signatory requirement.* Any approval by the county of transfer of ownership or control shall be contingent upon the prospective controlling party becoming a signatory to the franchise.

(h) *Time frame for county review.* The county shall have 60 days to act upon any request for approval of such sale or transfer that contains or is accompanied by such information as is required in accordance with FCC regulations. If the county fails to render a final decision on the request within 60 days, such request shall be deemed granted unless the requesting party and the county agree to an extension of time.

(i) *Pro forma transfers.* Notwithstanding anything to the contrary, no consent from the grantor shall be required for a transfer or assignment to an entity under common control with grantee provided that prior to such transfer, grantee provides to the county verifiable information to establish that such transferee under common control has the financial, legal and technical ability to fully perform all obligations of the franchise. (Ord. No. 1998-05, art. IV, § 4.12, 2-16-98)

Sec. 20-33. Franchise renewal.

(a) *Renewal discretionary.* Upon completion of the term of any franchise granted under this chapter, the county may in its sole discretion grant or deny renewal of the franchise of the grantee in accordance with the provisions of the Cable Act. The grantee shall own the cable television system, but shall have no property right in the public rights of way upon the completion of the franchise term. (Ord. No. 1998-05, art. IV, § 4.13, 2-16-98)

Sec. 20-34. Police powers.

(a) *Police powers.* In accepting the franchise, the grantee acknowledges that its rights hereunder are subject to the police power of the county to adopt and enforce general ordinances necessary to the safety and welfare of the public; and it

agrees to comply with all applicable general laws and ordinances enacted by the county pursuant to such power.

(b) *Conflicts.* Any conflict between the provisions of this chapter or the franchise and any other present or future lawful exercise of the county's police powers shall be resolved in favor of the latter, except that any such exercise that is not of general application in the jurisdiction or applies exclusively to grantee or cable television systems which contains provisions inconsistent with this chapter shall prevail only if, upon such exercise, the county finds an emergency exists constituting a danger to health, safety, property or general welfare and such exercise is mandated by law.

(Ord. No. 1998-05, art. IV, § 4.14, 2-16-98)

Sec. 20-35. Franchise fees.

(a) *Because the county finds that:*

- (1) The streets of the state, and county to be used by the grantee in the operation of its system within the boundaries of the franchise area are valuable public properties acquired and maintained by the state, and county at great expense to its taxpayers;
- (2) The grant to the grantee to the said streets is a valuable property right without which the grantee would be required to invest substantial capital in right-of-way costs and acquisitions;
- (3) The administration of this chapter and the franchise imposes upon the county additional regulatory responsibility and expense; and
- (4) A grantee of any franchise hereunder shall pay to the county a franchise fee in an amount as designated in the franchise, but in no event less than five percent of the gross annual revenues, or the maximum amount permitted under applicable federal, state, or local law, if such maximum is greater than five percent. The annual franchise payment shall be in addition to any other fee and shall commence as of the effective date of the fran-

chise. The county shall be furnished a statement of said payment by a chief financial officer of the division operating the system in the county, reflecting the total amounts of annual gross revenues and the above charges and computations for the period covered by the payment.

(b) *Franchise fee in addition to other tax or payment.* This payment shall be in addition to any other tax or payment owed to the county or other taxing jurisdiction by the grantee. Payment of the franchise fee made by grantee to the county shall not be considered in the nature of a tax, but shall be in addition to any and all taxes which are now or may be required hereafter to be paid by any federal, state, or local law.

(c) *Acceptance by the county.* No acceptance of any payment by the county shall be construed as a release or as an accord and satisfaction of any claim the county may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligation of the grantee.

(d) *Failure to make required payment.* In the event that any franchise payment or recomputed amount is not made on or before the dates specified herein, grantee shall pay as additional compensation an interest charge, computed from such due date, at the annual rate equal to the commercial prime interest rate of the county's primary depository bank during the period that such unpaid amount is owed.

(e) *Payments to be made quarterly.* The franchise fee and any other cost or damage assessed against the grantee shall be payable quarterly to the County of Cabarrus. The grantee shall file a complete and accurate statement (certified by an officer of the grantee responsible for the system's financial statements) of all gross revenues within the franchise area during the period for which said quarterly payment is made, and said payment shall be made to the county no later than 45 days following the end of each calendar quarter. Quarterly computation dates are the last day in the months of March, June, September and December.

(f) *The county's right of inspection.* The county shall have the right to inspect the grantee's income records and the right to audit and to recompute any amounts determined to be payable under this chapter. Audits shall be at the expense of the county unless such audit shows the grantee to be in arrears by five percent. In such case, the grantee shall reimburse the county for the actual out-of-pocket cost of the audit. Any additional amount due the county as a result of the audit shall be paid within 30 days following written notice to the grantee by the county which notice shall include a copy of the audit report.

(Ord. No. 1998-05, art. IV, § 4.15, 2-16-98)

Sec. 20-36. Forfeiture or revocation.

(a) *Grounds for revocation.* The county reserves the right to revoke any franchise granted hereunder and rescind all rights and privileges associated with the franchise in the following circumstances, each of which shall represent a default and breach under the chapter and the franchise grant:

- (1) If the grantee shall default in the performance of any of the material obligations under this chapter or under any related documents, contracts and other terms and provisions entered into by and between the county and the grantee.
- (2) If the grantee shall fail to provide or maintain in full force and effect the liability and indemnification coverage or the performance bond as required herein.
- (3) If the grantee shall violate any orders or rulings of any regulatory body having jurisdiction over the grantee relative to this chapter or the franchise.
- (4) If the grantee attempts to evade any of the provisions of this chapter or the franchise or practices any fraud or deceit upon the county or cable subscribers.
- (5) The grantee's construction schedule is delayed later than the schedule contained in the franchise or beyond any extended date set by the county.

- (6) The grantee becomes insolvent, unable or unwilling to pay its debts or is adjudged bankrupt.
- (7) Failure to restore service after seven consecutive days of interrupted service system-wide, except when approval of such interruption is obtained from the county.
- (8) Material misrepresentation of fact in the application for or negotiation of the franchise or any extension or renewal thereof.
- (9) If the grantee ceases to provide services for any reason within the control of the grantee over the cable television system.

(b) *Effect of circumstances beyond control of grantee.* The grantee shall not be declared at fault or be subject to any sanction under any provision of this chapter in any case, in which performance of any such provision is prevented by reasons beyond the grantee's control. A fault shall not be deemed to be beyond the grantee's control if committed by a corporation or other business entity in which the grantee holds a controlling interest whether held directly or indirectly.

(c) *Effect of pending litigation.* Pending litigation or any appeal to any regulatory body or court having jurisdiction over the grantee shall not excuse the grantee from the performance of its obligations under this chapter or the franchise unless a stay is granted by a regulatory body of a court of competent jurisdiction. Failure of the grantee to perform such obligations because of pending litigation or petition may result in forfeiture or revocation pursuant to the provisions of this section.

(d) *Procedure prior to revocation.*

- (1) The county shall make written demand that the grantee comply with any such requirement, limitation, term condition, rule or regulation or correct any action deemed cause for revocation. If the failure, refusal or neglect of the grantee continues for a period of 90 days following such written demand, the county shall place its request for termination of the franchise upon a regular commission board meeting agenda. The county shall cause

to be served upon such grantee at least 30 days prior to the date of such commission board meeting, a written notice of this intent to request such termination, and the time and place of the meeting, notice of which shall be published by the county clerk at least once, seven days before such meeting in a newspaper of general circulation within the county.

- (2) The commission board shall hear any persons interested therein, and shall determine in its discretion, whether or not any failure, refusal or neglect by the grantee was with just cause.
- (3) If such failure, refusal or neglect by the grantee was with just cause, as defined by the county, the commission board shall direct the grantee to comply within such time and manner and upon such terms and conditions as are reasonable.
- (4) If the commission board shall determine such failure, refusal, or neglect by the grantee was without just cause, then the commission board shall, by resolution, declare that the franchise of the grantee shall be terminated and the performance bond forfeited unless there is compliance by the grantee within a specified period of time not to exceed 90 days.

(e) *Disposition of system.* In the event a franchise expires and renewal is denied, is revoked or otherwise terminated, the county may in its sole discretion, do any of the following:

- (1) Purchase the system under the procedures set forth in section 20-41 of this chapter.
- (2) Effect a transfer of ownership of the system to another party;
- (3) Order the removal of the system required by public necessity from the county within a reasonable period of time as determined by the county or require the original grantee to maintain and operate its system for a period of six months or until such further time as is mutually agreed upon.

(f) *Restoration of property.* In removing its plant, structures and equipment, the grantee shall re-fill, at its own expense, any excavation that shall be made by it and shall leave all public ways and places in as good a condition or better than that prevailing prior to the grantee's removal of its equipment and appliances without affecting the electrical or telephone cable wires or attachments. The county shall inspect and approve the condition of the public ways and public places and cables, wires, attachments, and poles after removal. The liability, indemnity, insurance and performance bond as provided herein shall continue in full force and effect during the period of removal and until full compliance by the grantee with the terms and conditions of this paragraph, this chapter and the franchise.

(g) *Restoration by county; reimbursement of costs.* In the event of a failure by the grantee to complete any work required by sections 20-23 and 20-25 and/or (f) above, or any other work required by county law or ordinance within the time as may be established and to the satisfaction of the county, the county following reasonable notice to the grantee may cause such work to be done and the grantee shall reimburse the county the cost thereof within 30 days after receipt of an itemized list of such costs or the county may recover such costs through the performance bond provided by grantee. The county shall be permitted to seek legal and equitable relief to enforce the provisions of this section.

(h) *Extended operation.* Upon either the expiration or revocation of a franchise, the county may require the grantee to continue to operate the system for a period of six months from the date of such expiration or revocation, or until such time as is mutually agreed upon. The grantee shall, as trustee for its successor in interest, continue to operate the cable television system under the terms and conditions of this chapter and the franchise and to provide the regular subscriber service and any and all of the services that may be provided at the time. The county shall be permitted to seek legal and equitable relief to enforce the provisions of this section. (Ord. No. 1998-05, art. IV, § 4.16, 2-16-98)

Sec. 20-37. Receivership and foreclosure.

(a) *Termination by insolvency.* The franchise granted hereunder shall, at the option of the county, cease and terminate 120 days after the appointment of a receiver or receivers or trustee or trustees to take over and conduct the business of the grantee whether in a receivership, reorganization, bankruptcy or other action or proceeding unless such receivership or trusteeship shall have been vacated prior to the expiration of said 120 days, or unless:

- (1) Such receivers or trustees shall have, within 120 days after their election or appointment, fully complied with all the terms and provisions of this chapter and the franchise granted pursuant hereto, and the receivers or trustees within said 120 days shall have remedied all defaults under the franchise; and
- (2) Such receivers, or trustees shall, within said 120 days, execute an agreement duly approved by the court having jurisdiction in the premises, whereby such receivers or trustees assume and agree to be bound by each and every term, provision and limitation of the franchise herein granted.

(b) *Termination by judicial action.* In the case of a foreclosure or other judicial sale of the plant, property and equipment of the grantee or any part thereof, including or excluding the franchise, the county may serve notice of termination upon the grantee and the successful bidder at such sale, in which event the franchise and all rights and privileges of the grantee granted hereunder shall cease and terminate 30 days after service of such notice, unless:

- (1) The county shall have approved the transfer of the franchise, in the manner this chapter provides, and
- (2) Such successful bidder shall have covenanted and agreed with the county to assume and be bound by all the terms and conditions of the franchise.

(Ord. No. 1998-05, art. IV, § 4.17, 2-16-98)

Sec. 20-38. Equal opportunity policy.

(a) *Equal employment opportunity.* Equal opportunity employment shall be afforded by all operators of cable television systems to all quali-

fied persons, and no person shall be discriminated against in employment because of race, color, religion, age, national origin, sex, or physical handicap. Grantee shall comply with all equal opportunity provisions enacted by federal, state and local authorities, as well as all such provisions contained in this chapter and the franchise. (Ord. No. 1998-05, art. IV, § 4.18, 2-16-98)

Sec. 20-39. Notices.

All notices from grantee to the county pursuant to this chapter and the franchise shall be to the county manager or his/her designee. Grantee shall maintain with the county, throughout the term of the franchise, an address for service of notices by mail. The grantee shall be required to advise the county of such address(es) and telephone numbers and any changes thereof. (Ord. No. 1998-05, art. IV, § 4.19, 2-16-98)

Sec. 20-40. Failure of county to enforce this chapter, no waiver of the terms thereof.

The grantee shall not be excused from complying with any of the terms and conditions of this chapter or the franchise by any failure of the county upon any one or more occasions to insist upon or to seek compliance with any such terms or conditions. (Ord. No. 1998-05, art. IV, § 4.20, 2-16-98)

Sec. 20-41. Rights reserved to the grantor.

(a) *Right to purchase of the system by the county.*

- (1) *Right to purchase.* At the expiration of any franchise, for which grantee has not requested renewal or upon lawful denial by grantor of grantee's right to renewal and the expiration or exhaustion by grantee of all rights to appeal such denial of renewal, the grantor may, in a lawful manner and upon the payment of fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself, lawfully obtain, purchase, condemn, acquire, take over and hold the cable television system. Upon the lawful

revocation of any franchise granted under this chapter, the grantor may, in a lawful manner, and upon the payment of an equitable price, lawfully obtain, purchase, condemn, acquire, take over and hold the cable television system.

- (2) *Date of valuation.* The date of valuation shall be no earlier than the day following the date of expiration or termination and no later than the date the county makes a fair and reasonable offer for the system or the date of transfer of ownership, whichever occurs first.
- (3) *System valuation.* The value of the cable system shall be determined by a qualified appraiser mutually agreed upon by the grantee and the county based upon the method indicated in (a)(1) above. In addition, no value shall be allowed for any increase in value arising out of any expectation or cable television system's revenues beyond the forfeiture and termination date or expiration date, whichever is sooner.
- (4) *Intent to purchase.* Upon receipt of notice of the county's intent to purchase the system at the value established above, the grantee shall have 30 days within which to accept that valuation as the purchase price of the system. In the event that purchase price is not acceptable, the parties shall have 120 days in which to negotiate an acceptable purchase price.
- (5) *Transfer to county.* Upon exercise of this option, and the payment of the agreed upon sum by the county and its service of official notice of such action upon the grantee, the grantee shall immediately transfer to the county possession and title to all facilities and property, real and personal, of the cable television system, free from any and all liens and encumbrances not agreed to be assumed by the county in lieu of some portion of the purchase price set forth above; and the grantee shall execute such warranty, deeds or other instruments of conveyance to the county as shall be necessary for this purpose.

(b) *Right of inspection of construction.* The county shall have the right to inspect all construction or installation work performed in public rights of way subject to the provisions of the franchise and, following reasonable notice, to make such tests as it shall find necessary to ensure compliance with the terms of this chapter and other pertinent provisions of the law.

(c) *Right of inspection of property.* Upon reasonable notice, grantee shall permit examination by any duly authorized representative of the county, of the cable system, together with any appurtenant property of grantee situated within or without the county where necessary to ensure compliance with the terms of this chapter, the franchise, and other pertinent provisions of the law or regulation.

(d) *Right of intervention.* The county shall have the right of intervention in any suit or proceeding to which the grantee is party, and the grantee shall not oppose such intervention by the county.

(e) *Right to require removal of property.* Upon denial of renewal of this chapter or the franchise, or upon its revocation or expiration, as provided for herein, the county shall have the right to require the grantee to remove, at its own expense, all portions of the cable television system required by public necessity from all streets and public ways within the county.

(f) *Expense reimbursement to county.* The grantee of an initial franchise shall pay the county a sum of money which will, when added to application fees received, reimburse all costs and expenses incurred by it in connection with preparation of this chapter, the franchise agreements and the initial grant of a franchise, including, but not limited to, consultant fees, attorneys' fees, publication fees, travel expenses and all other direct costs; provided, however, that the county shall submit a detailed schedule of all such costs. Such payment shall be made within 30 days after the county furnishes the grantee with a written statement of such expenses.

(Ord. No. 1998-05, art. IV, § 4.21, 2-16-98)

Sec. 20-42. No recourse against the grantor.

The grantee shall have no recourse whatsoever against the county or its officials, boards, commis-

sions, agents, or employees for any loss, cost, expense or damage arising out of any provision or requirements of the franchise or because of the enforcement of this chapter or the franchise. Notwithstanding the foregoing, grantee may make application for non-monetary equitable relief (e.g., injunction or mandamus) to a court of competent jurisdiction upon reasonable notice to the grantor. (Ord. No. 1998-05, art. IV, § 4.22, 2-16-98)

Secs. 20-43—20-50. Reserved.

**ARTICLE III. REGULATION OF
FRANCHISE**

Sec. 20-51. Regulatory authority.

(a) *On-going regulation.* The county shall exercise appropriate regulatory authority under the provisions of this chapter and applicable law. This authority shall be vested in the board of county commissioners and administered through the county manager or his designee in order to provide day-to-day administration and enforcement of the provisions of this chapter and any franchise granted hereunder, and to carry out the county's responsibilities with regard to cable communications.

(b) *Change in law or regulation.* Notwithstanding any other provisions of this chapter to the contrary, the grantee shall at all times comply with all laws and regulations of the local, state and federal government. In the event that any actions of the state or federal government or any agency thereof, or any court of competent jurisdiction upon final adjudication, substantially reduce in any way the power or authority of the county under this chapter or the franchise, or if in compliance with any local, state, or federal law or regulation, the grantee finds conflict with the terms of this chapter, the franchise, or any law or regulation of the county, then as soon as possible following knowledge thereof, the grantee shall notify the county of the point of conflict believed to exist between such law or regulation and the laws or regulations of the county, this chapter and the franchise. The county, at its option, may notify the grantee that it wishes to negotiate those provisions which are affected in any way by such

modification in regulations or statutory authority. Thereafter, the grantee shall negotiate in good faith with the county in the development of alternate provisions which shall fairly restore the county to the maximum level of authority and power permitted by law. The county shall have the right to modify any of the provisions to such reasonable extent as may be necessary to carry out the full intent and purpose of this chapter and franchise.

(c) *Authority.* The county reserves the right to exercise the maximum plenary authority, as may at any time be lawfully permissible, to regulate the cable television system, the franchise and the grantee. Should applicable legislative, judicial or regulatory authorities at any time permit regulation not presently permitted to the county, the county may following written notice to the grantee but without the approval of the grantee engage in any such additional regulation as may then be permissible, whether or not contemplated by this chapter or the franchise, including without limitation, regulation regarding franchise fees, taxes, programming, rates charged to subscribers and users, consumer protection, or any other similar or dissimilar matter.

(Ord. No. 1998-05, art. V, § 5.1, 2-16-98)

Sec. 20-52. Supervision of the franchise.

(a) *The county shall have the following regulatory responsibility:*

- (1) Administration and enforcement of the provisions of this chapter and any franchise granted hereunder.
- (2) Award, renewal, extension or termination of a franchise pursuant to the provisions of this chapter, the franchise, and other applicable law.
- (3) Consent prior to sale or transfer of any franchise granted hereunder.
- (4) Performance evaluation.
- (5) Rate regulation, if applicable.
- (6) Receive and investigate complaints regarding substandard service and to initiate any action necessary pursuant to this

chapter or the franchise or any applicable law or regulation to correct the service deficiencies.

(b) *The county also reserves the right to perform the following functions:*

- (1) Develop objectives and coordinate activities related to the operation of government channels.
- (2) Approve procedures and standards for public, government and educational access and operations and services, including the use of dedicated channels and sharing of public facilities.
- (3) Coordinate plans for expansion, interconnection and growth of cable services.
- (4) Analyze the possibility of integrating cable communications with other county, state or regional telecommunications networks.
- (5) Formulate and recommend long-range telecommunications policy for the county, and determine the future cable-related needs and interests of the community.
- (6) Provide the administrative effort necessary for the conduct of performance evaluations, and any other activities required for the administration of this chapter, or the franchise.
- (7) Monitor grantee's process for handling citizen complaints and periodically inspect and analyze the records related to such complaints.
- (8) Receive applications for rate increases if applicable and provide staff assistance in the analysis and recommendations thereto.
- (9) Monitor grantee's adherence to operational standards, service requirements and line extension policies.
- (10) Assure compliance with applicable laws and ordinances.
- (11) Arrange tests and analysis of equipment and performance, as needed to insure compliance with this chapter and the franchise.

- (12) Assure continuity in service.
 - (13) Receive for examination all data and reports required by this chapter and the franchise.
 - (14) Represent the county's interest before local, state or federal government agencies in cable communications matters.
 - (15) Such other regulatory authority as appropriate to carry out the intent of this chapter and the franchise.
- (Ord. No. 1998-05, art. V, § 5.2, 2-16-98)

Sec. 20-53. Rates and charges.

(a) *Schedule filings.* Grantee shall file with the county schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto. Grantee shall notify the county and subscribers in writing at least 30 days prior to the implementation of any change in services offered, rates, charges, or terms and conditions related thereto. Prior to subscriber notification, the county shall receive notice of such changes as soon as practicable.

(b) *Nondiscriminatory rates.* Unless federal law allows otherwise, grantee shall establish rates that are nondiscriminatory within the same general class of subscribers which must be applied fairly and uniformly to all subscribers in the franchise area for all services. Nothing contained herein shall prohibit the grantee from offering (i) discounts to commercial and multiple-family dwelling subscribers billed on a bulk basis; (ii) promotional discounts; or (iii) reduced installation rates for subscribers who have multiple services. Grantee's charges and rates for all services shall be itemized on subscriber's monthly bills.

(c) *County regulation.* To the extent that federal or state law or regulation may now, or as the same may hereafter be amended to, authorize the county to regulate the rates for any particular service tiers, service packages, equipment, or any other services provided by grantee, the county shall have the right to exercise rate regulation to the full extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the county.

(d) *Ability to petition.* To the extent that federal or state law or regulation may now, or as the same may hereafter be amended to, authorize the county to regulate the rates for any particular service tiers, service packages, equipment, or any other services provided by grantee, the county shall have the right to petition the Federal Communications Commission or other appropriate agency or organization to obtain rate regulation authority or to petition the federal body to review or regulate rates in the county.

(Ord. No. 1998-05, art. V, § 5.3, 2-16-98)

Sec. 20-54. Performance evaluation.

(a) *Annual evaluation sessions.* The county and the grantee shall, at the discretion of the county, hold a scheduled performance evaluation session, not to exceed more than one session per calendar year. All such evaluation sessions shall be open to the public.

(b) *Special evaluation sessions.* Special evaluation sessions may be held at any time during the term of the franchise at the request of the county.

(c) *Topics for review.* Topics which may be discussed at any scheduled or special evaluation session may include, but not be limited to system performance and construction, grantee compliance with this chapter and the franchise, customer service and complaint response, subscriber privacy, services provided, programming offered, service rate structures, franchise fees, penalties, free or discounted services, applications of new technologies, judicial and FCC filings, and line extensions.

(d) *Cooperation by grantee.* During the review and evaluation by the county, the grantee shall fully cooperate with the county and shall provide such information and documents as the county may need to reasonably perform its review.

(e) *Response to inquiries.* The county may, at any time, make inquiries, concerned with the management and affairs of the cable television system as they relate to the operation of the cable television system in the county. Grantee shall use all reasonable effort to respond to such inquiries in a timely fashion.

(Ord. No. 1998-05, art. V, § 5.4, 2-16-98)

Secs. 20-55—20-60. Reserved.

ARTICLE IV. BONDS, INSURANCE, AND INDEMNIFICATION

Sec. 20-61. Performance bond.

(a) *Performance bond.* Upon the effective date of the franchise, the grantee shall obtain and maintain during the entire term of the franchise and any extensions and renewals thereof, at its cost and expense, and file with the county, a corporate surety bond in an amount specified in the franchise to guarantee the faithful performance of the grantee of all its obligations provided under this chapter and the franchise. Failure to timely obtain, file and maintain said bond shall constitute a substantial violation within the meaning of this section.

(b) *Conditions.* The performance bond shall be issued by a surety licensed to do business in North Carolina and shall provide the following conditions:

- (1) There shall be recoverable by the county jointly and severally from the principal and surety, any and all fines and liquidated damages due to the county and any and all damages, losses, costs, and expenses suffered or incurred by the county resulting from the failure of the grantee to: faithfully comply with the provisions of this chapter and the franchise; comply with all orders, permits and directives of any county agency or body having jurisdiction over its acts or defaults; pay fees due to the county; or, pay any claims, liens or taxes due the county which arise by reason of the construction, operation, maintenance or repair of the cable system. Such losses, costs and expenses shall include but not be limited to attorney's fees and other associated expenses.
- (2) The total amount of the bond shall be forfeited in favor of the county in the event:
 - a. The grantee abandons the cable system or fails to initiate or complete construction of the cable system as

specified at any time during the term of the franchise or any extension thereto; or

- b. The grantee assigns the franchise without the express written consent of the county, when such consent is required under this chapter or federal law or regulation.
- c. The franchise is terminated by reason of the default of the grantee.

(c) *Reduction of bond.* Upon written application by the grantee, the county may, at its sole option, permit the amount of the bond to be reduced or waive the requirements for a performance bond subject to the conditions set forth below. Reductions granted or denied upon application by the grantee shall be without prejudice to the grantee's subsequent applications or to the county's right to require the full bond at any time thereafter. However, no application shall be made by the grantee within one year of any prior application.

(d) *Use of performance bond.* Prior to drawing upon the performance bond for the purposes described in this section, the county shall notify the grantee in writing that payment is due and the grantee shall have 30 days from the receipt of such written notice to make a full and complete payment. If the grantee does not make the payment within 30 days, the county may withdraw the amount thereof, with interest and penalties, from the performance bond.

(e) *Notification.* Within three days of a withdrawal from the performance bond, the county shall send to the grantee, by certified mail, return receipt requested, written notification of the amount, date and purpose of such withdrawal.

(f) *Replenishment of performance bond.* No later than 30 days after mailing to the grantee by certified mail notification of a withdrawal pursuant to paragraph (f) above, the grantee shall replenish the performance bond in an amount equal to the amount so withdrawn. Failure to make timely replenishment of such amount to the performance bond shall constitute a substantial violation of this chapter.

(g) *Non-renewal, alteration, or cancellation of performance bond.* The performance bond required herein shall be in a form satisfactory to the county and shall require 30 days written notice of any non-renewal, alteration or cancellation to both the county and the grantee. The grantee shall, in the event of any such cancellation notice, obtain, pay all premiums for, and file with the county, written evidence of the issuance of replacement bond or policies within 30 days following receipt by the county or the grantee of any notice of cancellation.

(h) *Inflation.* The amount of the bond provided for herein, is subject to reasonable increases to offset the effects of inflation at the end of every three-year period of the franchise, applicable to the next three year period, upon the determination of the county.

(i) *County rights.* The rights reserved to the county with respect to the performance bond are in addition to all other rights of the county, whether reserved by this chapter, the franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such a bond shall affect any other right the county may have.

(j) *Right to require replacement of bonds or insurance.* If the county becomes aware of the financial condition of any bonding or insurance company issuing a performance bond or insurance policy to grantee as required herein where, if such conditions were known at the time, the county would not have approved the surety of the bond or the county would not have found the form of the bond or the insurance policies satisfactory or if the financial condition of such bonding or insurance company materially change to the extent that such approvals would not have been made, the county may, at any time, require that any such bond or insurance policy be replaced with such other bond or insurance policy, consistent with the requirements set forth in this section.

(Ord. No. 1998-05, art. VI, § 6.1, 2-16-98)

Sec. 20-62. Liability and insurance.

(a) *Certificate of insurance.* Prior to commencement of construction, but in no event later than 60 days after the effective date of the franchise

and thereafter continuously throughout the duration of the franchise and any extensions or renewals thereof, the grantee shall furnish to the county, certificates of insurance, approved by the county, for all types of insurance required under this section. Failure to furnish said certificates of insurance in a timely manner shall constitute a violation of this chapter.

(b) *Filing.* Any certificate of insurance policy obtained by the grantee in compliance with this section shall be filed and maintained with the county clerk during the term of the franchise, and may be changed from time to time to reflect changing liability limits and/or to compensate for inflation. Grantee shall immediately advise the county of any litigation that may develop that would affect this insurance.

(c) *No liability limit.* Neither the provisions of this section or any damages recovered by the county hereunder, shall be construed to or limit the liability of the grantee under any franchise issued hereunder or for damages.

(d) *Endorsement.* All insurance policies maintained pursuant to this chapter or the franchise shall contain the following, or a comparable, endorsement:

It is hereby understood and agreed that this insurance policy may not be canceled by the insurance company nor the intention not to renew be stated by the insurance company until 30 days after receipt by the county manager, by registered mail, of a written notice of such intention to cancel or not to renew.

(e) *Hold harmless clause.* All contractual liability insurance policies maintained pursuant to this chapter or the franchise shall include the provision of the following hold harmless clause:

The grantee agrees to indemnify, save harmless and defend the county, its officials, agents, servants, and employees, and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and reasonable attorney's fees for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to any property, which may arise or which may

be alleged to have arisen out of or in connection with the work covered by the franchise and performed or caused to be performed, or any other person indemnified hereunder. The foregoing indemnity shall apply except if such injury, death or damage is caused directly by the negligence or other fault of the county, its agents, servants, or employees.

(f) *State institution.* All insurance policies provided under the provisions of this chapter or the franchise shall be written by companies authorized to do business in the state, and approved by the State Board of Insurance.

(g) *Named insured.* At any time during the term of the franchise, the county may request and the grantee shall comply with such request, to name the county as an additional named insured for all insurance policies written under the provisions of this chapter or the franchise.

(h) *Inflation.* To reflect changing liability limits, all of the coverage's, limits, and amounts of the insurance provided for herein are subject to reasonable increases to offset the effects of inflation at the end of every three year period of the franchise, applicable to the next three year period, upon the determination of the county.

(i) *General liability insurance.* The grantee shall maintain, and by its acceptance of any franchise granted hereunder specifically agrees that it will maintain throughout the term of the franchise, general liability insurance insuring the grantee in the minimum of:

- (1) \$1,000,000.00 for property damage per occurrence;
- (2) \$2,000,000.00 for property damage aggregate;
- (3) \$3,000,000.00 for personal bodily injury or death to any one person; and
- (4) \$3,000,000.00 bodily injury or death aggregate per single accident or occurrence.

(j) *Policy inclusions.* Such general liability insurance must include coverage for all of the following: comprehensive form, premises-operations, explosion and collapse hazard, under-

ground hazard, products/completed operations hazard, contractual insurance, broad form property damage, and personal injury.

(k) *Automobile liability insurance.* The grantee shall maintain, and by its acceptance of any franchise granted hereunder specifically agrees that it will maintain throughout the term of the franchise, automobile liability insurance for owned, non-owned, or rented vehicles in the minimum amount of:

- (1) \$1,000,000.00 for bodily injury and consequent death per occurrence;
- (2) \$1,000,000.00 for bodily injury and consequent death to any one person; and
- (3) \$500,000.00 for property damage per occurrence.

(l) *Worker's compensation and employer's liability insurance.* The grantee shall maintain and by its acceptance of any franchise granted hereunder specifically agrees that it will maintain throughout the term of the franchise, worker's compensation and employer's liability, valid in the state, in the minimum amount of:

- (1) Statutory limit for worker's compensation; and
- (2) \$100,000.00 for employer's liability.

(m) *No limitation on liability.* None of the provisions of this chapter or any insurance policy required herein, or any damages recovered by the county hereunder, shall be construed to excuse the faithful performance by or limit the liability of grantee under this chapter or the franchise for damages either to the limits of such policies or otherwise.

(n) *Insurance for contractors and subcontractors.* Grantee shall provide coverage for any contractor or subcontractor involved in the construction, installation, maintenance or operation of its cable television system by either obtaining the necessary endorsements to its insurance policies or requiring such contractor or sub contractor to obtain appropriate insurance coverage consistent with this section and appropriate to the extent of

its involvement in the construction, installation, maintenance or operation of the grantee's cable television system.

(Ord. No. 1998-05, art. VI, § 6.2, 2-16-98)

Sec. 20-63. Indemnification.

(a) *Indemnification.* To the fullest extent permitted by law, grantee shall, at its sole cost and expense, fully indemnify, defend and hold harmless the county, its officers, public officials, boards and commissions, agents, and employees from and against any and all lawsuits, claims, (including without limitation worker's compensation claims against the county or others), causes of action, actions, liability, and judgments for injury or damages:

- (1) To persons or property, in any way arising out of or through the acts or omissions of grantee, its subcontractors, agents or employees, to which grantee's negligence shall in any way contribute.
- (2) Arising out of any claim for invasion of the right of privacy, for defamation of any person, firm or corporation, or the violation or infringement of any copyright, trademark, trade name, service mark or patent, or any other right of any person, firm or corporation, but excluding claims arising out of or related to government and educational access programming; or
- (3) Arising out of grantee's failure to comply with the provisions of any federal, state, or local statute, ordinances or regulation applicable to grantee in its business hereunder.

(b) The foregoing indemnity is conditioned upon the following:

The county shall give grantee prompt notice of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. The grantee shall be afforded the opportunity to control the defense of any such claim or action including, but not limited to any settlements, or compromise thereof; provided, however, that in the event grantee proposes or finds acceptable any settlement, compromise or resolution which the

county deems detrimental to its interest, then in such event, county shall assume control of the defense of any such claim or action at its sole cost and expense, and the grantee's indemnity for the final resolution of such claim or action shall be limited to that settlement or compromise amount proposed or found acceptable by grantee but to which the county objected. Nothing herein shall be deemed to prevent the county from cooperating with the grantee and participating in the defense of any litigation by its own counsel at its own costs and expense. The county may take such steps in any proceeding as it deems essential to protect the county's or the public's interests. No recovery by the county of any sum by reason of the liquidated damages required by the franchise shall be subject to litigation by the grantee, except that any sum so received by the county shall be deducted from any recovery which the county might have against the grantee under the terms of this section.

(Ord. No. 1998-05, art. VI, § 6.3, 2-16-98)

Secs. 20-64—20-70. Reserved.

ARTICLE V. DESIGN AND CONSTRUCTION PROVISIONS

Sec. 20-71. Authority to construct.

(a) *Authorization to commence construction and application procedures.* Within 30 days after acceptance by the grantee of a franchise, the grantee shall apply for any needed contracts for pole use. Any pole space or facilities obtained from the county shall be agreed upon through a contract for pole use, facility, or conduit use, and fees shall be paid to the county for such use as specified in the relevant contract(s). Pole space and other facilities obtained from the county, utilities, and other lawful uses of the public way shall be at the cost and expense of the grantee. Within 30 days after completion of the make-ready survey identifying the routes of the system, the grantee shall apply for all additional licenses from the state, county, or other necessary parties, such as the railroads for crossing under or over their property. In any event, all necessary applications for

permits, licenses, certificates and authorizations shall be applied for in a timely fashion so that such filing and processing shall not interfere with or cause delay with the construction scheduled as outlined in the franchise. Failure to make such timely application and timely filing shall constitute a substantial violation of this chapter.

(b) *Power to contract.* Upon grant of the franchise and in order to construct, operate and maintain a cable system in the county, the grantee may enter into contracts with any public utility companies or any other owner or lessee of any poles or underground areas located within or without the county; obtain right-of-way permits from appropriate state, county, and federal officials necessary to cross or otherwise use highways or roads under their respective jurisdiction; obtain permission from the Federal Aviation Administration to erect and maintain antennae; and obtain whatever other permits a county, state or federal agency may require.

(Ord. No. 1998-05, art. VII, § 7.1, 2-16-98)

Sec. 20-72. Construction and technical standards.

(a) *Compliance with construction and technical standards.* Grantee shall construct, install, operate and maintain its system in a manner consistent with all laws, ordinances, construction standards, governmental requirements, the franchise, and FCC technical standards, which standards are incorporated by reference herein. The grantee, through the system, shall provide uniform, strong signals which are free from any significant distortion and interference. The system shall be designed, constructed, operated and maintained for 24-hours-a-day continuous operation. The system shall produce, for reception on subscribers' receivers which are in good working order, either monochrome or color pictures (providing the receiver is color capable) which are free from any significant interference or distortion which would cause any material degradation of video or audio quality.

(b) *State of the art.* Grantee will deploy advanced technology which enables grantee to add new services (does not include particular programming services) as they are developed and which

are considered the current state-of-the-art, defined as that level of technical performance and technical capability, which has been implemented in a majority of the cable television systems of similar size in the State of North Carolina. Provided, however, that any improvement needed to meet such level can be instituted through technology which has been demonstrated to be feasible for its intended purpose, in an operationally workable manner, and in an economically viable manner.

(c) *County review of construction plans.* Prior to the erection of any towers, poles, conduits or facilities under this chapter, the grantee shall first submit to the county and other designated parties for review a concise description of the facilities proposed to be erected or installed, including engineering drawings, if required, together with a map and plans indicating the proposed location of all such facilities. Prior to rebuilding or upgrading of the cable television system, the grantee shall first submit to the county for their review, the design plans and maps, including engineering drawings, as they become available.

(d) *Contractor qualifications.* Any contractor proposed for work of construction, installation, operation, maintenance, and repair of system equipment must be properly licensed under laws of the state, and all local ordinances.

(e) *Minimum interference.* The grantee's system and associated equipment erected by the grantee within the county shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. No pole or other fixtures placed in any public ways by the grantee shall be placed in such a manner as to interfere with normal travel on such public way.

(f) *County maps.* The county does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights-of-way, where necessary, the location shall be verified by excavation.

(g) *Quality of construction.* Construction, installation, operation, and maintenance of the cable television system shall be performed in an orderly and workmanlike manner, in accordance with then current technological standards. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

(h) *Construction standards.* Grantee shall at all times comply with:

- (1) National Electrical Safety Code (National Bureau of Standards);
- (2) National Electrical Code (National Bureau of Fire Underwriters);
- (3) Bell System Code of Pole Line Construction (where applicable);
- (4) Applicable FCC or other federal, state and local regulations; and standards as set forth in the franchise.

(i) *Non-interference.* In any event, the system shall not endanger or interfere with the safety of persons or property in the franchise area or other areas where the grantee may have equipment located.

(j) *Antennae.* Any structure used in the cable television system shall comply with construction, marking, and lighting of antennae structure standards as required by federal and state law or regulation.

(k) *OSHA.* All worker facilities, conditions, and procedures that are used during construction, installation, operation, and maintenance of the cable system shall comply with the standards of the Occupational Safety and Health Administration.

(l) *RF leakage.* RF leakage shall be checked at reception location for emergency radio services to prove measurable interference signal combinations are possible. Stray radiation shall be measured adjacent to any proposed aeronautical navigation radio sites to prove no measurable interference to airborne navigational reception in the normal flight pattern. FCC rules and regula-

tions shall govern. The system shall cause no measurable interference in TV signal reception to any operating receiver not connected to and serviced by the system.

(Ord. No. 1998-05, art. VII, § 7.2, 2-16-98)

Sec. 20-73. System construction schedule.

The franchise shall specify the construction schedule.

(Ord. No. 1998-05, art. VII, § 7.3, 2-16-98)

Sec. 20-74. Extension of service.

The grantee shall provide service to all dwelling units or commercial subscribers within 150 feet of the existing system and in any additional areas in the county as specified in the franchise. (Ord. No. 1998-05, art. VII, § 7.4, 2-16-98)

Sec. 20-75. Use of streets.

(a) *Underground installation.* All installations shall be underground in those areas of the county where public utilities providing both telephone and electric service are underground at the time of installation. In areas where either telephone or electric utility facilities are above ground at the time of installation, grantee may install its service above ground, provided that at such time as those facilities are required to be placed underground by the county or are placed underground, the grantee shall likewise place its services underground without additional cost to the county. Where not otherwise required to be placed underground by this chapter or the franchise, the grantee's system shall be located underground at the request of the adjacent property owner, provided that the excess cost over the aerial location shall be borne by the property owner making the request. All cable passing under the roadway shall be installed in conduit.

(b) *Permits.* Grantee shall at all times comply with normal county permitting processes.

(c) *Interference with persons, improvements, public and private property and utilities.* The grantee's system, including poles, lines, facilities,

equipment and all appurtenances, shall be located, erected and maintained so that such facilities shall:

- (1) Not endanger or interfere with the health, safety or lives or persons;
- (2) Not interfere with any improvements the county or state may deem proper to make;
- (3) Not interfere with the free and proper use of public streets, alleys, bridges, easements or other public ways, places or property, except to the minimum extent possible during actual construction or repair;
- (4) Not interfere with the rights and reasonable convenience of private property owners, except to the minimum extent possible during actual construction or repair; and
- (5) Not obstruct, hinder or interfere with any gas, electric, water or telephone facilities or other utilities located within the county.

(d) *Restoration to prior condition.* In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the grantee shall, at its own cost and expense and in a manner approved by the county, replace and restore all paving, sidewalk, driveway, landscaping, or surface of any street or alley disturbed, in as good a condition as, or better than, before said work was commenced and in a good workmanlike, timely manner in accordance with standards for such work set by the county. Such restoration shall be commenced within no more than ten business days after the damage is reported and shall be completed as soon as possible thereafter.

(e) *Relocation of the system.* In the event that at any time during the period of the franchise, the county or state shall lawfully elect to alter, or change, the grade of any street, alley or other public ways, the grantee, upon reasonable notice by the proper authority, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(f) *Cooperation with building movers.* The grantee shall, on the request of any person holding a building moving permit issued by the county,

temporarily raise or lower its wire to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than 15 working days' advance notice to arrange for such temporary wire changes.

(g) *Tree trimming.* The grantee shall have the authority, except when in conflict with existing county ordinances, to trim any trees upon and overhanging public right-of-way so as to prevent the branches of such trees from coming in contact with the system, except that at the option of the county, such trimming may be done by it, or under its supervision and direction, at the expense of the grantee.

(h) *Easements.* All necessary easements over and under private property shall be arranged for by the grantee.

(i) *Private property.* Grantee shall be subject to all laws, ordinances or regulations regarding private property in the course of constructing, installing, operating or maintaining the cable television system in the County of Cabarrus. Grantee shall promptly repair or replace all private property, both real and personal, damaged or destroyed as a result of the construction, installation, operating or maintenance of the cable television system at its sole cost and expense.

(j) *Public property.* In addition to the requirements of section 20-72(c), the grantee shall, prior to performing any underground construction on county owned right-of-way, streets or roads, receive county approval to construct and the grantee shall use its best efforts to locate, in advance, any water, sewage, or drainage lines or to any other municipal structures in the streets during the construction due to the presence, negligence, operation or maintenance of the cable television system, the sole cost of such repairs including all services and materials will be filed against the grantee and these charges shall be paid immediately or the county may foreclose on performance bonds, or invoke other appropriate sanctions provided for in this chapter or in the franchise. (Ord. No. 1998-05, art. VII, § 7.5, 2-16-98)

Sec. 20-76. Erection, removal and common use of poles.

(a) *Approval for poles.* No poles shall be erected by the grantee without prior approval of the county with regard to location, height, types and any other pertinent aspect. However, no location of any pole or wire-holding structure of the grantee shall give rise to a vested interest and such poles or structures shall be removed or modified by the grantee at its own expense whenever the county determines that the public convenience would be enhanced thereby.

(b) *Requirements to use existing poles.* Where poles already exist for use in serving the county are available for use by the grantee, but it does not make arrangements for such use, the county may require the grantee to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to the grantee are just and reasonable.

(Ord. No. 1998-05, art. VII, § 7.6, 2-16-98)

Sec. 20-77. Construction reporting requirements.

(a) *Notice of commencement.* Thirty days prior to the commencement of construction, the grantee shall provide the county with a written notice of the commencement of construction.

(b) *Progress reports.* Written progress reports shall be submitted to the county thereafter, on a quarterly basis throughout the entire construction process. The county manager may require more frequent reporting if he/she determines it is necessary to better monitor the grantee's progress. The grantee and county shall work cooperatively to establish the content and format of the report.

(c) *Subscriber information.* The grantee shall produce an informational document (e.g., door hanger), to be distributed to all residents of the area to be under construction, which shall describe the activity that will be taking place. A copy of this document shall be sent to the county manager for review.

(Ord. No. 1998-05, art. VII, § 7.7, 2-16-98)

Sec. 20-78. Tests and performance monitoring.

(a) *Completion tests.* Not later than 60 days after any new or substantially rebuilt portion of the system is made available for service to subscribers, the grantee shall conduct technical performance tests to demonstrate full compliance with all technical standards contained in this chapter and the franchise, and the technical standards and guidelines of the FCC. Thereafter, the grantee shall conduct technical performance tests as required by the FCC.

(b) *Methodology.* Such tests shall be performed by, or under the supervision of a qualified registered professional engineer or an engineer with proper training and experience. Upon request, a copy of the report shall be submitted to the county, describing test results, instrumentation, calibration, and test procedures, and the qualification of the engineer responsible for the tests.

(c) *Test points.* System monitor test points shall be established at or near the output of the last amplifier in the longest feeder line, at or near trunk line extremities. Such periodic tests shall be made at the test points as shall be required by the FCC and/or the franchise.

(d) *FCC tests.* In addition to the performance test reports required herein, a copy of any performance test reports required by the FCC shall be submitted to the county upon request.

(e) *County required tests.* Whenever there have been similar complaints made or when there exists other evidence, which, in the judgment of the county, casts doubt on the reliability or quality of the grantee's system, the county shall have the right and authority to compel the grantee to test, analyze, and report on the performance of its system. The county may require additional tests, full or partial repeat tests, different test procedures, or tests involving a specific subscriber's terminal. Reports on such tests shall be delivered to the county no later than 14 days after the county formally notifies the grantee and shall include the following information: the nature of the complaints which precipitated the special tests; what system component was tested; the equipment used, and procedures employed in said

testing; the results of such tests; and methods by which said complaints were resolved. Said tests and analyses may be supervised by a professional engineer not on the permanent staff of the grantee, who shall sign all records of the special tests and forward same to the county with a report interpreting the results of the tests and recommending what actions should be taken by the county.

(f) *Consultants.* The county shall have the right to employ qualified consultants and attorneys if necessary or desirable to assist in the administration of this, or any other section of this chapter or the franchise at the expense of the county.

(g) *General maintenance.* Grantee shall maintain wires, cables and all other real and personal property and facilities constituting the cable television system in good condition, order and repair at all times during the term of the franchise.

(h) *Maintenance log.* Grantee shall maintain an annual log showing the date, approximate time and duration, type and probable cause of all cable television system outages, whole or partial, due to causes other than routine testing or maintenance. This log shall be retained for one additional year and shall be subject to inspection and copying by the county or its designee during the grantee's regular business hours upon reasonable request.

(i) *Radiation monitoring.* Radiation monitoring shall be conducted on an ongoing basis, the result of said monitoring shall be made available to the county upon request.
(Ord. No. 1998-05, art. VII, § 7.8, 2-16-98)

Secs. 20-79, 20-80. Reserved.

ARTICLE VI. SERVICE PROVISIONS

Sec. 20-81. Services to subscribers and users.

(a) *Programming.* Concurrently with the activation of the cable television system in the county, the grantee shall provide all services to subscribers as described herein and in the franchise at rates detailed in the rate schedule.

(1) To ensure diversity of programming, the system shall carry the broad categories of

programming and services listed in the franchise. Should the grantee desire to change the selection of programs or services offered on any of the tiers, it shall maintain the mix, quality and level of services provided over the system. Any such change in programs or services offered shall comply with the conditions and procedures contained in the franchise, and shall be reported to the county at least 30 days prior to the proposed implementation. The grantee shall notify all subscribers in writing at least 30 days prior to implementing any change in the selection of programs or services offered on any tiers, or prior to adding or deleting any channels or changing the channel number for any station.

- (2) A basic service tier shall be offered to subscribers throughout the term of this chapter and the franchise.
- (3) The grantee shall provide and maintain access channels as specified in the franchise agreement. These channels may include:
 - a. "Government access channel" which shall be a specifically designated channel for county and county-wide governmental use and shall be managed and scheduled exclusively by the county.
 - b. "Educational channel" which shall be a specifically designated channel for use by public and private school authorities, and institutions of higher education.
 - c. Such additional access channels as may be specified in the franchise agreement.
- (4) The grantee shall make available leased access channels in accordance with federal law and regulation.
- (5) If the grantee offers a guide to subscribers, and is capable of providing local program listings, and such listings are provided by the county in a timely manner, the grantee shall include information re-

garding the programs offered on the access channels described above on the subscriber guide.

- (6) The grantee shall fully provide, at a minimum, services, facilities and equipment for educational and government access, and the local programming channel as indicated in the franchise.

(b) *Emergency override.* The grantee shall, without charge, provide, service and maintain public emergency transmission facilities to the county, as described in the franchise.

(Ord. No. 1998-05, art. VIII, § 8.1, 2-16-98)

Sec. 20-82. Installations, connections, and other grantee services.

(a) *Standard installations.* Standard installation shall consist of a service not exceeding 150 feet from a single point or pedestal attachment to the customer's residence. Service in excess of 150 feet and concealed wiring shall be charged not to exceed additional installation costs before installation begins. The desire of the subscriber as to the point of entry into the residence shall be observed whenever possible. Runs in building interiors shall be as unobtrusive as possible. The grantee shall use due care in the process of installation and shall repair any damage to the subscriber's property caused by said installation. Such restoration shall be commenced within no more than ten days after the damage is incurred and shall be completed as soon as possible thereafter.

(b) *Antennae and antennae switches.* The grantee shall not, as a condition to providing cable television service, require any subscriber or potential subscriber, to remove any existing antennae structures for the receipt of over-the-air television signals. The grantee shall install, upon the request of the subscriber, an RF or antennae switch where required for the provision of services provided by the grantee.

(c) *Lockout devices.* The grantee shall provide to new subscribers, information concerning the availability of a lockout device for use by a subscriber and shall provide annual notice of the availability of a lockout device to all subscribers.

The grantee reserves the right to require a reasonable deposit for the use of this device, as set forth in the rate schedule. The lockout device described herein shall be made available to all subscribers requesting it beginning on the first day that any cable service is provided.

(d) *Reconnection.* Grantee shall restore service to customers wishing restoration of service provided customer shall first satisfy any previous obligations owed.

(e) *Delinquent accounts.* Grantee shall use reasonable efforts to collect on delinquent subscriber accounts. In all cases, the grantee shall provide the customer with at least ten working days written notice prior to disconnection.

(f) *Prohibited activities.* In the conduct of its business franchised hereunder, neither the grantee nor its officers, employees, or agents shall directly or indirectly sell, lease, repair, install, or maintain television sets or receivers or antennae; provided, however, that nothing hereunder shall prohibit grantee, at customer's request and without payment, from examining or adjusting customer's receiving set to determine whether reception difficulties originate in the set or in the grantee's system.

(g) *Subscriber policies.* The grantee shall comply with all subscriber policies in the cable ordinance and the franchise agreement.

(Ord. No. 1998-05, art. VIII, § 8.2, 2-16-98)

Sec. 20-83. Service calls and complaint procedures.

(a) *Business office.* The grantee shall establish, operate and maintain in Cabarrus County a business office, which shall, at a minimum, be open for business and for repair 45 hours per week. Grantee shall also provide personnel, telephone service, including a locally listed telephone number, and other equipment, as needed, to ensure timely, efficient and effective service to consumers and for the purpose of receiving inquiries, requests and complaints concerning all aspects of the construction, installation, operation and maintenance of the system and for payment of subscriber's service charges.

(b) *Telephone service.* The grantee shall have a listed, locally-staffed telephone number for subscriber service calls and such telephone service shall be available 24 hours a day, seven days a week. The grantee shall provide a sufficient number of telephone lines and telephone staff members to enable subscribers to reach the grantee without unreasonable delay. Grantee's number shall be published and provided to subscribers and the general public. In addition, the grantee shall provide a method (e.g. private telephone or beeper number) to the county which will enable the county to reach agents of the grantee in the event of an emergency.

(c) *Response time.* The grantee shall respond to and resolve subscribers' complaints or requests for service in connection with repairs and maintenance and malfunctions of the system. The grantee shall respond as quickly as possible to such complaints and requests, but shall in any case respond within 24 hours. Complaints or requests which may pose a potential health and safety hazard will be responded to immediately. In connection with billing complaints, the grantee shall respond within seven business days.

(d) *Grantee rules.* The grantee shall prepare and file with the county copies of all of its rules and regulations in connection with the handling of inquiries, requests and complaints. The grantee shall, by appropriate means, such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the department to whom such inquiries or complaints are to be addressed.

(e) *Complaint records.* The grantee shall keep full records in connection with all written complaints in connection with the system. Such records shall identify the person contacting the grantee, and the person responding on behalf of the grantee, the subject matter of the contact, the date it was received, the resolution of the matter in question or the action taken by the grantee in connection with the contact and the date thereof, and such other information as may be deemed pertinent by the grantee. These records shall be retained for 24 months and shall be made available for periodic inspection by the county upon reasonable notice.

If requested by the county, grantee shall prepare a summary of service calls for the previous 12 months identifying the number, general nature and disposition of such calls, on a month by month basis. A summary of such service calls shall be submitted to the grantor within 30 days following its request in a form reasonable acceptable to the grantor.

(f) *Equipment service.* The grantee shall service or replace without charge all equipment provided by it to the subscriber, provided, however, that the grantee may charge a subscriber for service to or replacement of any equipment damaged due to negligence of such subscriber.

(g) *Investigation and remedial action.* For recurrent complaints regarding service deficiencies (other than total or partial loss of service, such as "ghosting", weak audio signal, distortion, and the like), the county manager or designee may require the grantee to investigate and report to him/her the causes and cures thereof, and the county manager may also conduct his/her own investigation. Thereafter, the county manager or designee may order the grantee to take corrective action within reasonably feasible time limits. If such action is not taken, or is ineffective, or if within 30 days the grantee files with the county a notice of objection to the order, the county may conduct a hearing and may, if the evidence warrants a finding of fault on the part of the grantee, take appropriate action pursuant to the terms of this chapter.

(h) *Subscriber solicitation.* If the grantee undertakes a direct solicitation campaign the grantee shall provide the county with a list of names of all representatives who will be soliciting within the county and the dates within such solicitations shall take place. Each such representative entering upon private property shall be required to display an employee identification card issued by the grantee bearing a picture of said representative.

(i) *Sales information.* Grantee shall provide to all subscribers annually and all prospective subscribers or users complete written information concerning all services and rates provided by the grantee upon solicitation and prior to consummation of any agreement for installation of service.

(j) *Billing practices information.* Grantee shall inform all subscribers and all prospective subscribers or users of complete information respecting billing and collection procedures, procedures for ordering changes in or termination of services, and refund policies, upon solicitation of service or prior to the consummation of any agreement for installation of service.

(Ord. No. 1998-05, art. VIII, § 8.3, 2-16-98)

Sec. 20-84. Continuity of service mandatory.

(a) *Subscription rights.* It shall be the right of all subscribers to receive continuous, uninterrupted service insofar as their financial and other obligations to the grantee are honored.

(b) *Cooperation.* In the event that the grantee elects to rebuild, modify or sell the system, or the county gives notice of intent to terminate or fails to renew its franchise, the grantee shall cooperate with the county or new grantee or operator in maintaining continuity of service to all subscribers. During such period, grantee shall be entitled to the revenues for any period during which it operates the system, and shall be entitled to reasonable costs for the services when it no longer operates the system.

(c) *Failure to provide continuity.* In the event the grantee fails to operate the system for seven consecutive days without prior approval of the county or without just cause, the county may, at its option, operate the system or designate an operator until such time as grantee restores service under conditions acceptable to the county or a permanent operator is selected. If the county is required to fulfill this obligation for the grantee, the grantee shall reimburse the county for all reasonable costs or damages in excess of revenues from the system received by the county that are the result of the grantee's failure to perform.

(Ord. No. 1998-05, art. VIII, § 8.4, 2-16-98)

Sec. 20-85. Protection of subscriber privacy.

(a) *Protection of subscriber privacy mandatory.* Grantee shall at all times protect the privacy of subscribers, as provided herein and in accordance with applicable federal, state, and local laws.

(b) *Collection of personally identifiable information prohibited.* Grantee shall not use or permit the use of the cable system to collect personally identifiable information concerning any subscriber without prior written or electronic consent of the subscriber concerned, except to obtain information necessary: (1) to render a cable service or other service provided by the grantee to the subscriber, or (2) to detect unauthorized reception of cable communications. "Personally identifiable information" does not include any record of aggregate data which does not identify particular persons.

(c) *Disclosure of subscriber information prohibited.* Except as provided in this section, the grantee shall not disclose personally identifiable information concerning any subscriber without prior written or electronic consent of the subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or cable operator. The grantee may disclose such information if the disclosure is:

- (1) Necessary to render or conduct a legitimate business activity related to a cable service or other service provided by the grantee to the subscriber;
- (2) Subject to 47 U.S.C. § 551(h), and amendments or successor statutes thereto, made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed; or
- (3) A disclosure of names and addresses of subscribers to any cable service or other services, provided such disclosure does not reveal the extent of any viewing or other use by the subscriber of a cable service or other service provided by the grantee.

(d) *Personally identifiable information.* Grantee shall not predicate regular subscriber service on the subscriber's grant or denial of permission to collect, maintain or disclose personally identifiable information. A subscriber may at any time

revoke any permission previously given by delivering to the grantee a written statement of that intent.

(e) *Correction policy.* Each subscriber shall be provided access to all personally identifiable information regarding such subscriber that grantee collects or maintains or allows to be collected or maintained, and such subscriber shall be provided the opportunity to correct any error in such information.

(f) *Viewing habits.* Any information concerning individual subscriber viewing habits or responses, except for information for billing purposes, shall be destroyed within 60 days.

(g) *System performance.* This section is not intended to prohibit the use or transmission of signals useful only for the control or measurement of system performance.

(h) *Notice of privacy provisions.* At the time of entering into an agreement to provide any cable or other service to a subscriber grantee shall provide notice in the form of a separate written statement to each subscriber which clearly and conspicuously informs the subscriber of:

- (1) The privacy rights of the subscriber and the limitations placed upon grantee with regard to this chapter hereof and all other applicable federal, state and local subscriber privacy provisions;
- (2) The nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;
- (3) The nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;
- (4) The time and place at which the subscriber may have access to such information in accordance with this chapter and other applicable federal, state and local law.

(Ord. No. 1998-05, art. VIII, § 8.5, 2-16-98)

Sec. 20-86. Rights of individuals.

(a) *Nondiscrimination required.* Grantee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users or general citizens on the basis of race, color, religion, national origin, age, sex, or physical or mental handicaps, provided the subscriber shall pay all applicable fees for the service desired. Grantee shall comply at all times with all other applicable federal, state and local laws and regulations, and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made part of this chapter by reference.

(b) *Fairness of accessibility.* The entire system of the grantee shall be operated in a manner consistent with the principles of fairness and equal accessibility of its facilities, equipment, channels, and other services to all citizens, businesses, public agencies and other entities having a legitimate use for the network; and no one shall be arbitrarily excluded from its use; allocation of use of said facilities shall be made according to the rules or decisions of the grantee and any regulatory agencies affecting the same.

(c) *Information accessibility.*

- (1) Each individual shall have the right to information concerning the provisions of this chapter and the rules and regulations formulated pursuant to it by the commission board, the grantee, agent or entity created hereunder or pursuant to this chapter.
- (2) Each document provided to the county which is required to be maintained, prepared, filed or submitted under the provisions of this chapter or pursuant to it, except those required and designated confidential by the Federal Communications Commission is a public document, available for public inspection and copying at the requester's expense at the county during normal business hours. The charge for such copying shall approximate the cost of mechanical reproduction and shall not include a charge for labor.

(Ord. No. 1998-05, art. VIII, § 8.6, 2-16-98)

Secs. 20-87—20-90. Reserved.

ARTICLE VII. BOOKS, RECORDS, AND REPORTS

Sec. 20-91. Books and records available to the grantor.

(a) *Records.* The grantee shall maintain an office within Cabarrus County, and manage all of its operations in accordance with a policy of totally open books and records. The county shall have the right, following reasonable notice, to inspect at any time during normal business hours, all books, records, maps, plans, income tax returns, financial statements, service complaint logs, compliance with performance test results and other like materials of the grantee which relate to the operation of the franchise and the chapter, to such extent as may be necessary to ensure compliance with this chapter, the franchise, or other pertinent provisions of federal law or regulation. Access to the aforementioned records shall not be denied by the grantee on the basis that said records contain "proprietary" information.

(b) *Review.* Grantee shall permit, upon reasonable notice, any duly authorized representative of the county to examine and copy or transcribe any and all maps and other records kept or maintained by grantee or under its control concerning the operations, affairs, transactions or property of grantee to such extent as may be necessary to ensure compliance with this chapter, the franchise, or other pertinent provisions of federal law or regulation. If any such maps or records are not kept in the county, or upon reasonable request made available in the county, and if the county shall determine that an examination of such maps or records is necessary or appropriate to the performance of any of their duties, then all travel and maintenance expenses necessarily incurred in making such examination shall be paid by grantee.

(Ord. No. 1998-05, art. IX, § 9.1, 2-16-98)

Sec. 20-92. Reports required.

The grantee shall file with the county:

(1) *Regulatory communications.* Upon request, all reports required by the Federal

Communications Commission (FCC) including, but not limited to Equal Employment Opportunity (EEO) reports, and all petitions, applications and communications of all types submitted by grantee to the FCC, the Security and Exchange Commission (SEC), or any other federal or state regulatory commission or agency, having jurisdiction over any matter affecting operation of grantee's system shall be submitted simultaneously to the county by delivery to the county clerk who shall advise interested county departments of such filing.

- (2) *System report.* Any revisions to the system "as built" maps shall be filed with the county as available. Upon request, a report setting forth the physical miles of plant construction and plant in operation during the most recent fiscal year shall be submitted to the county.
- (3) *Construction reports.* Construction reports shall be sent to the county 30 days after the franchise is awarded and quarterly thereafter until construction is completed as specified in section 20-77(a) and (b) of this chapter.
- (4) *Proof of performance tests.* Proof of performance test results shall be supplied to the county when sections of the system are rebuilt and thereafter as required in section 20-78(a) of this chapter.
- (5) *Test required by county.* Tests required by county as specified in section 20-78(e) of this chapter shall be submitted within 14 days of notification.
- (6) *Change in service.* A report on any change in programming or service shall be provided to the county 30 days prior to implementation.
- (7) *Proof of bonds and insurance.* Grantee shall submit to the county the required performance bond, or a certified copy thereof, and written evidence of payment of required premium, and a certificate of insurance evidencing all policies of insur-

ance required by this chapter, or certified copies thereof, and written notice of payment of required premium.

(8) *Financial and ownership reports.* The following financial reports for the franchise area shall be submitted annually to the county:

- a. A statement of gross revenues (which may be submitted quarterly in accordance with § 20-35(e)) of the system certified by an officer of the grantee responsible for the system's financial statements.
- b. A copy of the annual shareholders' report(s) for grantee or the corporation, partnership or other entity having legal control of the grantee, prepared in the ordinary course of business.

(i) *Operational reports.* The following system and operational reports shall be submitted annually to the county upon request:

- (1) A summary of the previous year's subscriber totals for basic cable service and cable programming service tier.
- (2) A projection of system and service plans for the future.

(j) *Additional reports.* The grantee shall prepare and furnish to the county at the times and in the form prescribed, such additional reports with respect to its operation, affairs, transactions or property, as may be reasonably necessary and appropriate to the performance of any of the rights, functions or duties of the county in connection with this chapter or the franchise, to such extent as may be necessary to ensure compliance with this chapter, the franchise, or other pertinent provisions of federal law or regulation. (Ord. No. 1998-05, art. IX, § 9.2, 2-16-98)

Sec. 20-93. Records required.

(a) *Mandatory records.* The grantee shall at all times maintain:

- (1) A record of all written complaints received and interruptions or degradation of service experience for the preceding period prior to a performance review.

- (2) A full and complete set of plans, records and "as built" maps showing the exact location of all cable television system equipment installed or in use in the county, exclusive of subscriber service drops.

(b) *Other records.* The county may impose reasonable requests for additional information, records and documents from time to time, as may be reasonably necessary and appropriate to the performance of any of the rights, functions or duties of the county in connection with this chapter or the franchise to such extent as may be necessary to ensure compliance with this chapter, the franchise, or other pertinent provisions of federal law or regulation.

(Ord. No. 1998-05, art. IX, § 9.3, 2-16-98)

Secs. 20-94—20-100. Reserved.

ARTICLE VIII. MISCELLANEOUS PROVISIONS

Sec. 20-101. Public notice.

Minimum public notice of any public meeting relating to this chapter or the franchise shall be governed by state and local law.

(Ord. No. 1998-05, art. X, § 10.1, 2-16-98)

Sec. 20-102. Captions.

The captions to sections throughout this chapter are intended solely to facilitate reading and reference to the sections and provisions of this chapter. Such captions shall not affect the meaning or interpretation of this chapter.

(Ord. No. 1998-05, art. X, § 10.2, 2-16-98)

Sec. 20-103. Franchise applications.

(a) *Invitation of any applications for an initial franchise, public notice of each category of service offered including number of pay units sold, new services offered, and the amount collected annually "Request for proposals."* The county may

invite applications for an initial cable television franchise by means of a public notice advertising the availability of its "Request for proposals".

- (1) The public notice shall contain, but need not be limited to:
 - a. A description of the franchise area which is sought.
 - b. A statement that a formal "Request for proposals" is available to prospective applicants from a county official whose name, address, and telephone number are specified.
 - c. A statement that applications for the franchise must be submitted in writing in the form and manner specified in the "Request for proposals" no later than a day certain.
 - d. A statement that all applications will be made available for public inspection during normal business hours at a specified location.

(b) *Request for proposals.* Prior to inviting any applications for an initial franchise, the county shall prepare a "Request for proposals" that shall contain, but need not be limited to, the following:

- (1) A description of the cable television system and services desired by the county including any system specifications established by the county.
- (2) A statement specifying the form that all applications shall follow.
- (3) A statement indicating the amount of the application fee (if any) to be submitted with the application, and the manner in which such fee is to be submitted.
- (4) A statement that all applications must contain the information required by the "Request for proposal".
- (5) The closing date for the submission of applications.
- (6) The name, address, and telephone number of the county official(s) who may be contacted for further information.

(c) *Requirement for public hearing on reasonable notice.* The county shall conduct a public hearing prior to awarding any cable television

franchise. The hearing shall be preceded by reasonable notice to each of the franchise applicants and to the public, and shall be conducted by the board of county commissioners in accordance with the following procedures:

- (1) There shall be an agenda for the hearing which shall specify the proposal(s) to be considered at the hearing.
- (2) Every person who has applied for a cable television franchise shall appear at the hearing either in person or by authorized representative. The application of any applicant not so appearing shall not be further considered, except for good cause shown.
- (3) All persons shall be given opportunity to participate in the hearing, but nothing contained herein shall limit the power of the presiding officer to establish reasonable time limits and otherwise limit repetitive statements or questions.
- (4) The notice of hearing shall:
 - a. Conform to all relevant state and local laws and ordinances.
 - b. Describe the agenda to be considered at the public hearing.
 - c. Indicate that copies of all franchise applications are available for public inspection during normal business hours at a place to be specified in the notice.

(d) *County discretion.* The county, at its discretion, may reject any application for an initial franchise. In awarding a franchise, the county shall allow the applicant's cable system a reasonable period of time to become capable of providing cable service to all households in the franchise area; may require adequate assurance that the cable operator will provide adequate public, educational, and governmental access channel capacity, facilities, or financial support; and may require adequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

(Ord. No. 1998-05, art. X, § 10.3, 2-16-98)

Secs. 20-104—20-110. Reserved.

**ARTICLE IX. BASIC SERVICE TIERS,
RELATED EQUIPMENT, INSTALLATION
AND SERVICE PROVISIONS**

**Sec. 20-111. Rate filing and review of rates
by franchising authority.**

The county shall follow the FCC rate regulations in its regulation of the basic service rates and charges of Time Warner Cable and/or any other franchisee hereafter operating in the county, notwithstanding any different or inconsistent provisions in any cable franchise.

- (1) A franchisee that is notified that its basic service and equipment rates are subject to rate regulation shall file, within 30 days of notification, a submission (hereinafter the "rate filing") as required by FCC rate regulations. The franchisee's rates effected by such notice shall not be subject to increase except with the prior approval of the county or as provided by FCC rate regulations.
- (2) Every rate filing shall be submitted to the County Manager, Cabarrus County, 65 Church Street SE, P.O. Box 707, Concord, NC 28026-0707 and to the county's rate consultant, Centralina Council of Governments, P. O. Box 35008, Charlotte, NC 28235. Four copies of the filing are required to be submitted to each. If the operator claims any part of the filing is proprietary, it shall file four additional copies, which shall omit the proprietary information.
- (3) If external costs are included in the rate filing and/or if different rates for classes of customers are proposed, the rate filing is required to show how the rates are consistent with FCC rate regulations. A franchisee shall respond to requests for information from the county or its rate consultant by deadlines established by the county.
- (4) If the county finds that the initial rates and/or any subsequent rate increases are within the FCC rate regulation standards, the rates shall be effective 30 days after submission of the rate filing.
- (5) If the county is unable to determine whether the rate at issue is within the FCC's benchmark standards, based on the material submitted by the franchisee, or if the franchisee submitted a cost of service showing, the county may take an additional period of time to make a final determination and toll the effective date of the proposed rates for a commensurate period. The county may take an additional 90 days if it needs more time to ensure that a rate is within the FCC's benchmark rate standards. The county may take an additional 150 days to evaluate a cost-of-service showing. The county or its rate consultant shall issue a written decision regarding its invocation of the additional time period and shall so notify the franchisee. If no action is taken within the above referenced time periods, the proposed rates shall go into effect, subject to subsequent refund orders, if the county later issues a decision disapproving any portion of the proposed rates.
- (6) The board of county commissioners shall issue a written decision on its findings in compliance with the FCC rate regulations. If rates are in excess of the FCC rate regulations, the rates may be reduced by the county pursuant to applicable FCC rate regulations.
- (7) After the initial rate regulation procedures are followed, any franchisee shall, in conjunction with each change in basic service rates and charges, conform to FCC rate regulations.
- (8) Every rate approved or prescribed shall be subject to further reduction and refund, as allowed by FCC rate regulations.
- (9) A franchisee shall be subject to all applicable penalties and forfeitures under the county's franchise and FCC rate regulations; and
- (10) A franchisee is required to serve the county and its rate consultant with all filings

made by the franchisee to the FCC related to the regulation of basic service rates and charges in the county.

(Ord. No. 1998-15, § 1, 10-19-98)

Sec. 20-112. Public inspection of rate filings; consideration of the views of interested parties.

In connection with such regulation and except where nondisclosure of information is authorized and necessary, the county shall provide for public inspection of the rate filing and insure a reasonable opportunity for consideration of the views of interested parties including, but not limited to the following.

- (1) After receiving a rate filing, the county manager or his designee shall promptly publish a public notice that a filing has been received and that, except for those parts which may be withheld as proprietary pursuant to federal and/or state law, it is available for public inspection. The notice shall state that interested parties may comment on the filing, and shall provide for any and all interested parties to submit written comments on the filing to the county manager or his designee during the comment period. The comment period shall be ten days and shall commence on the date the notice is provided. The franchisee may submit responses to comments by interested parties during the comment period and for five days thereafter.
- (2) If the county extends the period for its review by 90 days for a benchmark showing or 150 days for a cost of service showing or for a longer period as allowed by FCC rate regulations, the period for comment by interested parties shall be extended for a 20 day period commencing on the day the written decision extending the time period is issued. The franchisee may respond to comments by interested parties during such comment period and for five days thereafter.
- (3) If the county or its rate consultant prepares a public document analyzing the

rate filing, such document shall be made available to the franchisee. The franchisee shall have three days, or such longer period as specified by the county, to file a response with the county. Prior to prescribing a rate or a refund, the county shall provide the franchisee with an opportunity to comment on the proposed rate or refund.

- (4) Notice of the public comment period for interested parties shall be provided in accordance with local law.

(Ord. No. 1998-15, § 2, 10-19-98)

Sec. 20-113. Authority of county manager to implement FCC rate regulations.

The county manager or his designee is authorized on behalf of the county to execute and file with the FCC such submissions as are now, or may hereafter, be required by FCC rate regulations in order to regulate basic service rates and charges and to establish any additional procedures for the county and the franchisee in conformity with FCC rate regulations. The county may utilize a rate consultant to advise it on proposed rate changes and to assist it in the procedures and the standards for review adopted by the FCC. A rate consultant may be any person who has sufficient background and experience, in the sole opinion of the county, to properly evaluate and analyze rates and charges.

(Ord. No. 1998-15, § 3, 10-19-98)

Sec. 20-114. Proprietary information.

(a) If these provisions, or any request for information requires the production of proprietary information, the franchisee is required to produce the information. However, a franchisee may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The franchisee must state the reasons why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the county determines that nondisclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. Section 552, FCC rate regulations, and the state law, where

applicable. If the franchisee requests confidentiality and the request is denied, (1) where the franchisee is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or (2) the franchisee may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed until such time as disclosure is required by law.

(b) A request by any interested person or party for public disclosure and inspection of material withheld by the county as proprietary, shall be governed by the aforementioned federal and state law, where applicable. The county will notify the franchisee of the disposition of any request for public disclosure of information claimed by the franchisee, and withheld by the county, as proprietary information. The requesting party or the franchisee may seek review of any decision by the county regarding proprietary information, by filing an appeal with the appropriate form, as required by law. Disclosure of the information in question will be stayed pending resolution of any appeal.

(Ord. No. 1998-15, § 4, 10-19-98)

Chapter 21

RESERVED

Chapter 22

CIVIL EMERGENCIES

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Secs. 22-1—22-25. Reserved.

Article II. Emergency Management

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Sec. 22-27. Intent and purpose of article.
Sec. 22-28. Definitions.
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Sec. 22-30. Organization and appointments.
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Sec. 22-32. Duties and responsibilities of the coordinator.
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Sec. 22-64. Absence or disability of chairman.

ARTICLE I. IN GENERAL

Secs. 22-1—22-25. Reserved.

ARTICLE II. EMERGENCY MANAGEMENT*

Sec. 22-26. Short title of article.

This article shall be known and may be cited and referred to as "Emergency Management Ordinance for the County of Cabarrus." (Ord. of 5-7-84, § 1)

Sec. 22-27. Intent and purpose of article.

(a) It is the intent and purpose of this article to ensure the complete and efficient utilization of all of the county's resources to combat impacts resulting from enemy actions or other emergencies.

(b) The county emergency management function will be the instrument through which the board of commissioners may exercise the authority and discharge the responsibilities vested in them during emergencies.

(c) This article will not relieve any county department of the moral responsibilities or authority given to it in the special acts or by local ordinances, nor will it adversely affect the work of any volunteer agencies organized for relief in emergencies.

(Ord. of 5-7-84, § 2; Ord. No. 1997-19, 10-20-97; Ord. No. 2016-42, 10-17-16)

Sec. 22-28. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Attack means direct or indirect assault against the county, its government, its environs, or of the nation, by forces of a hostile nation or the agents thereof, including assault by bombing, conventional or nuclear, chemical or biological warfare, or sabotage.

***State law reference**—Emergency management agencies, G.S. Art. 1A 166A.

Coordinator means the coordinator of the county emergency management function, appointed as prescribed in this article.

Emergency means an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, weather-related, or riot-related cause.

Emergency management means, broadly, to carry out the basic government functions of maintaining the public peace, health and safety during an emergency. This shall include plans and preparations for protection from, and relief and recovery from, effects of an attack by the forces of an enemy nation or the agents thereof, and it shall also include such activity in connection with emergencies. It shall not, however, include any activity that is the primary responsibility of the military forces of the United States. Emergency management shall also mean the employees, equipment and facilities of all county departments, boards, councils, institutions and commissions; and, in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.

Emergency management volunteer means any person duly registered, identified and appointed by the emergency management coordinator of the county and assigned to participate in the integrated emergency management activities.

Regulations means and includes plans, programs and other emergency procedures deemed essential to emergency management as made by the coordinator.

Volunteer means contributing a service, equipment or facilities to emergency management activities without remuneration.

(Ord. of 5-7-84, § 3; Ord. No. 1997-19, 10-20-97; Ord. No. 2016-42, 10-17-16)

Cross reference—Definitions generally, § 1-2.

Sec. 22-29. Penalty for violation of article.

It shall be unlawful for any person to violate any of the provisions of this article or of the regulations or plans issued pursuant to the authority contained in this article, or to willfully

obstruct, hinder or delay any member of the emergency services organization in the enforcement of the provisions of this article or any regulations or plan issued pursuant to this article. Any person who violates any provision any ordinance or declaration enacted or declared pursuant to this article shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A.
(Ord. of 5-7-84, § 9; Ord. No. 2016-42, 10-17-16)

Sec. 22-30. Organization and appointments.

(a) The organization shall consist of the following:

- (1) An emergency management coordinator, and such assistants and other employees as are deemed necessary.
- (2) The employees, and resources of all county departments, boards, institutions, and councils will participate in the emergency management activities. Duties assigned to county departments shall be the same or similar to the normal duties of the department, where possible.
- (3) Volunteer personnel and agencies offering service to and accepted by the county.

(b) Pursuant to G.S. 166A-19.15(b) the office of the county manager shall be the emergency management agency, and the county manager shall be the emergency management coordinator, responsible for the organization, administration and operation of the emergency management agency, subject to the direction and guidance of the county board of commissioners.

(c) The coordinator shall designate individuals to whom emergency management duties may be delegated, subject to budget appropriations approved by the board of commissioners.
(Ord. of 5-7-84, § 4; Ord. No. 1997-19, 10-20-97; Ord. No. 2016-42, 10-17-16)

Sec. 22-31. Emergency powers and duties.

The county emergency management coordinator, or his designee(s), during any period when the county has been struck by an emergency, may promulgate such regulations as he deems necessary to protect life and property and preserve

critical resources after he has contacted and received approval from the county board of commissioners. Such regulations may include, but shall not be limited to the following:

- (1) Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of emergency management forces, or to facilitate the mass movement of persons from critical areas within the county.
- (2) Regulations pertaining to the movement of persons from areas deemed to be hazardous or vulnerable to disaster.
- (3) Such other regulations necessary to preserve public peace, health and safety.
- (4) Regulations promulgated in accordance with the authority of this section will be given widespread circulation through all avenues of the news media.

(Ord. of 5-7-84, § 5; Ord. No. 1997-19, 10-20-97; Ord. No. 2016-42, 10-17-16)

Sec. 22-32. Duties and responsibilities of the coordinator.

The coordinator shall be responsible to the county board of commissioners in regard to all phases of the emergency services activity. The coordinator, or his designee(s), shall be responsible for the planning, coordination and operation of the emergency management activities in the county. The coordinator, or his designee(s), shall maintain liaison with the state and federal authorities and the authorities of nearby political subdivisions so as to ensure the most effective operation of the emergency management plans. The duties of the coordinator, or his designee(s), shall include, but not be limited to, the following:

- (1) Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the county for emergency management purposes.
- (2) Development and coordination of plans for the immediate use of all facilities, equipment, manpower and other resources of the county for the purpose of minimizing or preventing damage to persons and

property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety and welfare.

- (3) Negotiating and concluding agreements with owners or persons in control of buildings or other property for the use of such buildings or other property for emergency management purposes.
 - (4) Through public informational programs, educating the populace as to actions necessary and required for the protection of their persons and property in case of enemy attack or disaster, either impending or present.
 - (5) Conducting public practice alerts to ensure the efficient operation of the emergency management forces and to familiarize residents with regulations, procedures and operations.
 - (6) Coordinating the activity of all other public and private agencies engaged in any emergency management activities.
- (Ord. of 5-7-84, § 6; Ord. No. 1997-19, 10-20-97)

Sec. 22-33. Plans.

(a) Comprehensive emergency management plans shall be adopted and maintained by resolution of the county board of commissioners. In the preparations of these plans, as it pertains to county organization, it is intended that the services equipment and facilities and personnel of all existing departments and agencies shall be utilized to the fullest extent. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by these plans to maintain their portions of the plans in a current state of readiness at all times. The emergency operations plan for relief and assistance shall have the effect of law whenever an emergency has been declared.

(b) The coordinator, or his designee(s), shall prescribe in the emergency plans those positions within the organization, in addition to his own, for which lines of succession are necessary. In each instance, the responsible person will designate and keep on file with the coordinator a

current list of three persons as successors to his position. The list will be in order of succession and will nearly as possible designate persons best capable of carrying out all assigned duties and functions.

(c) Each service chief and department head assigned responsibility in the plans shall be responsible for carrying out all duties and functions assigned therein. Duties will include the organization and training of assigned employees and, where needed, volunteers.

(d) Amendments to the plans shall be submitted to the coordinator, or his designee(s). If approved, the coordinator will then submit the amendments to the county board of commissioners with his recommendation for their approval. Such amendments shall take effect 30 days from the date of approval.

(e) When a required competency or skill for an emergency function is not available within local government, the coordinator, or his designee(s) is authorized to seek assistance from persons outside of government. The assignment of duties, when of a supervisory nature, shall also grant authority for the persons so assigned to carry out such duties prior, during, and after the occurrence of an emergency. Such services from persons outside of government may be accepted by local government on a volunteer basis. Such citizens shall be enrolled as emergency management volunteers in cooperation with the heads of local government departments affected. (Ord. of 5-7-84, § 7; Ord. No. 1997-19, 10-20-97; Ord. No. 2016-42, 10-17-16)

Sec. 22-34. No county or private liability.

(a) This article is an exercise by the county of its governmental functions for the protection of the public peace, health, and safety, and neither the county nor agents and representatives, if any, or any individual, receiver, firm, partnership, corporation, association, or trustee, or any of the agents thereof in good faith carrying out, complying with or attempting to comply with any order, rule, or regulation promulgated pursuant to the provisions of this article, shall be liable for any damage sustained to persons or property as the result of such activity.

(b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the county the right to inspect, designate and use the whole or any parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice emergency situation shall not be civilly liable for the death of, or injury to, any persons on or about such real estate or premises under such license, privilege or other permission; or for loss of, or damage to, the property of such person.
(Ord. of 5-7-84, § 8; Ord. No. 2016-42, 10-17-16)

Secs. 22-35—22-50. Reserved.

ARTICLE III. STATE OF EMERGENCY*

Sec. 22-51. Territorial applicability of article.

This article shall not apply within the corporate limits of any municipality, or within any area of the county over which the municipality has jurisdiction to enact general police-power ordinances, unless the municipality by resolution consents to its application or the mayor of the municipality has requested its application, in which event it shall apply to such areas as fully and to the same extent as elsewhere in the county.
(Ord. of 1-15-90, § 15)

Sec. 22-52. Penalty for violation of article.

Except as provided in section 22-58, any person violating any prohibition or restriction imposed by a proclamation authorized by this article shall be guilty of a class 2 misdemeanor, in accordance with G.S. 14-288.20A.
(Ord. of 1-15-90, § 13; Ord. No. 2016-42, 10-17-16)

Sec. 22-53. Restrictions authorized.

(a) A state of emergency shall be deemed to exist whenever during times of public crisis, emergency, rioting, catastrophe, or similar public

***Cross references**—Emergency services, ch. 26; floods, ch. 38.
State law reference—Authority to declare a state of emergency, G.S. 14-288.13.

emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.

(b) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the county or any part thereof, or threatening damages to or destruction of property, the chairman of the board of commissioners is hereby authorized and empowered under G.S. 14-288.13 and G.S. 166A-19.22 to issue a public declaration 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 county, to place in effect any or all of the restrictions authorized in this article.

(c) The chairman is hereby authorized and empowered to limit by the declaration the application of all or any part of such restrictions to any area specifically designated or described within the county and to specific hours of the day or night; to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of people within the county.
(Ord. of 1-15-90, § 1; Ord. No. 2016-42, 10-17-16)

Sec. 22-54. Declaration imposing prohibitions and restrictions.

(a) The chairman of the board of commissioners by declaration may impose the prohibitions and restrictions specified in sections 22-55 through 22-60 in the manner described in those sections. The chairman may impose as many of these specified prohibitions and restrictions as he finds

are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The chairman shall recite his findings in the declaration.

(b) The declaration shall be in writing. The chairman shall take reasonable steps to give notice of the terms of the declaration to those affected by it. The chairman shall send reports of the substance of the declaration to the mass communications media which serves the affected area. The chairman shall retain a text of the declaration and furnish upon request certified copies of it.

(c) The restrictions authorized by this section need not require or provide for the imposition of all the types of prohibitions or restrictions. The chairman shall determine and impose the prohibitions or restrictions deemed necessary or suitable to a particular state of emergency.
(Ord. of 1-15-90, § 2; Ord. No. 2016-42, 10-17-16)

Editor's note—Ord. No. 2016-42, adopted October 17, 2016, changed the title of § 22-54 from "Proclamation imposing prohibitions and restrictions" to read as herein set out.

Sec. 22-55. Evacuation.

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

(Ord. of 1-15-90, § 3; Ord. No. 2016-42, 10-17-16)

Sec. 22-56. Curfew.

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

chairman finds necessary for the preservation of the public health, safety and welfare. The declaration shall state the exempted classes and the restrictions from which each is exempted.

(b) Unless otherwise specified in the declaration, the curfew shall apply during the specified period each day until the chairman, by declaration, removes the curfew.

(Ord. of 1-15-90, § 4; Ord. No. 2016-42, 10-17-16)

Sec. 22-57. Possession, consumption, or transfer of alcoholic beverages.

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

(Ord. of 1-15-90, § 5; Ord. No. 2016-42, 10-17-16)

Cross reference—Alcoholic beverages in parks prohibited, § 50-6.

Sec. 22-58. Possession, transportation, and transfer of dangerous weapons and substances.

(a) The declaration may prohibit the transportation or possession off one's own premises or the sale or purchase of any dangerous weapon or substance, except that this subdivision does not authorize prohibitions or restrictions on lawfully possessed firearms and ammunition. The chairman may exempt from some or all of the restrictions classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary to the preservation of the public's health, safety, or welfare. The declaration shall state the exempted classes and the restrictions from which each is exempted.

(b) Dangerous weapon or substance means:

- (1) Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device, as defined in G.S.

14-288.1; gasoline; or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property.

- (2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so used.
- (3) Any part or ingredient in any instrument or substance included in this section when the circumstances indicate a probability that such a part or ingredient will be so used.

(c) If imposed, the restrictions shall apply throughout the jurisdiction of the county or such part thereof as designated in the declaration.

(d) A violation of this section shall be punishable as provided in G.S. 14-288.7.

(Ord. of 1-15-90, § 6; Ord. No. 2016-42, 10-17-16)

Cross reference—Use of firearms generally, § 46-2.

Sec. 22-59. Access to areas.

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

(b) Areas to which access is denied or restricted shall be designated by the sheriff and his subordinates or other law enforcement officer when directed in the declaration to do so by the chairman. When acting under this authority, the sheriff and his subordinates may restrict or deny access to any area, street, highway or location within the county if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency. (Ord. of 1-15-90, § 7; Ord. No. 2016-42, 10-17-16)

Sec. 22-60. Additional restrictions and prohibitions.

The declaration may prohibit or restrict:

- (1) Movements of people in public places;

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

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

(Ord. of 1-15-90, § 8; Ord. No. 2016-42, 10-17-16)

Sec. 22-61. Removal of prohibitions and restrictions.

The chairman shall, by declaration, terminate the entire declaration of emergency or remove any of the prohibitions and restrictions when the emergency no longer requires them, or when directed to do so by the board of commissioners. (Ord. of 1-15-90, § 9; Ord. No. 2016-42, 10-17-16)

Sec. 22-62. Superseding and amendatory declarations.

The chairman, in his discretion, may invoke the restrictions authorized by this article in separate declarations, and may amend any declaration by means of a superseding declaration in accordance with the procedures set forth in section 22-54.

(Ord. of 1-15-90, § 10; Ord. No. 2016-42, 10-17-16)

Editor's note—Ord. No. 2016-42, adopted October 17, 2016, changed the title of § 22-62 from "Superseding and amendatory proclamations" to read as herein set out.

Sec. 22-63. Termination of declaration.

Any declaration issued under this article shall only be terminated in writing under the same procedures set forth in section 22-54 for declarations.

(Ord. of 1-15-90, § 11; Ord. No. 2016-42, 10-17-16)

Editor's note—Ord. No. 2016-42, adopted October 17, 2016, changed the title of § 22-63 from "Termination of proclamation" to read as herein set out.

Sec. 22-64. Absence or disability of chairman.

In case of the absence or disability of the chairman, the vice-chairman of the board of

commissioners, or such other person as may be designated by the board of commissioners, shall have and exercise all of the powers given the chairman in this article.
(Ord. of 1-15-90, § 12)

Chapters 23–25

RESERVED

Chapter 26

EMERGENCY SERVICES*

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Article II. 911 Service

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ARTICLE I. IN GENERAL

Secs. 26-1—26-25. Reserved.

ARTICLE II. 911 SERVICE*

Sec. 26-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Exchange access facility means the access from a particular telephone subscriber's premises to the telephone system of a service supplier. Exchange access facilities include service supplier provided access lines, PBX trunks and centrex network access registers, all as defined by tariffs of the telephone company as approved by the state utilities commission. Exchange access facilities do not include service supplier owned and operated telephone pay station lines, or wide area telecommunication service (WATS), foreign exchange (FX), or incoming only lines.

911 charge means a contribution to the county for the 911 service start-up equipment costs, subscriber notification costs, addressing costs, billing costs, and nonrecurring and recurring installation, maintenance, service, and network charges of a service supplier providing 911 service.

911 system or 911 service means an emergency telephone system that provides the user of the public telephone system with the ability to reach a public safety answering point by dialing the digits 911. The term "911 system" or "911 service" also includes "enhanced 911 service," which means an emergency telephone system that provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features.

***State law reference**—Authority to impose a 911 charge, G.S. 62A-4.

Public Safety Telephone Act means G.S. 62A-1 et seq.

Service supplier means a person or entity who provides exchange telephone service to a telephone subscriber.

Telephone subscriber or subscriber means a person or entity to whom exchange telephone service, either residential or commercial, is provided and in return for which the person or entity is billed on a monthly basis. When the same person, business, or organization has several telephone access lines, each exchange access facility shall constitute a separate subscription. (Ord. of 2-18-91(1), § I)

Cross reference—Definitions generally, § 1-2.

Sec. 26-27. Imposition of service charge.

There is imposed a monthly 911 service charge, in the amount specified in section 26-28, upon each exchange access facility subscribed to by telephone subscribers whose exchange access lines are in the area served by the 911 service. (Ord. of 2-18-91(1), § II)

Sec. 26-28. Monthly charge.

The monthly 911 charge is an amount set from time to time for each exchange access facility subscribed to by a telephone subscriber whose exchange access lines are located in the area served by the 911 service. A schedule of fees is on file in the county offices. The amount of the charge may be adjusted at any time by the county board of commissioners to react to changes in operating costs for the 911 service. (Ord. of 2-18-91(1), § III)

Sec. 26-29. Collection and remittance of charges.

Service suppliers will be responsible for collecting and remitting to the county the 911 charges, as provided by the Public Safety Telephone Act. (Ord. of 2-18-91(1), § IV)

Sec. 26-30. Enforcement of this article.

Administration and collection activities to enforce and give effect to the provisions of this article shall be conducted pursuant to the provisions of the Public Safety Telephone Act. (Ord. of 2-18-91(1), § IV)

Sec. 26-31. Expenditure of 911 subscriber fees.

(a) *Administration.* Fees, less the one percent collection fee permitted by law, collected on behalf of the county will be remitted by the service provider to the county finance officer within ten days after the last day of the month. The finance officer shall coordinate all receipts and disbursements in accordance with the statutes of the Public Safety Telephone Act of July 6, 1989.

(b) *Emergency telephone system fund.* The fiscal officer to whom 911 charges are remitted under G.S. 62A-6 shall deposit the charges in a separate, restricted fund. The fund shall be known as the emergency telephone system fund. The fiscal officer may invest money in the fund in the same manner that other money of the local government may be invested. The fiscal officer shall deposit any income earned from such an investment in the emergency telephone system fund.

(c) *Payments from fund.* Money from the fund shall be used only to pay for:

- (1) The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software and database provisioning, addressing, and nonrecurring costs to establish a 911 system.
- (2) The rates associated with the service supplier's 911 service and other service supplier recurring charges.

(d) All receipts of funds, expenditures of funds, and management by the county of the 911 system shall be handled in accordance with G.S. 62A-1 et seq. and this article with respect to the 911 system in the county.

(Ord. of 2-18-91(2), §§ 1—4)

State law reference—Similar provisions, G.S. 62A-4, 62A-6—62A-8.

Secs. 26-32—26-50. Reserved.

ARTICLE III. FIRST RESPONDER PROGRAM*

Sec. 26-51. Purpose of article.

The county emergency medical service has transport vehicles certified by the state office of emergency medical services (OEMS), which are manned by personnel trained and certified as paramedics (EMT-P). The service has six stations which serve the county. The primary goal of an emergency medical service system is to reduce the probability of death of a victim by providing trained, well-equipped personnel at the scene of an accident or illness in a prompt, efficient, and coordinated manner. It is most desirable to have medically trained personnel located in close proximity to the citizens so that life sustaining measures may be given in the first few minutes after the occurrence of an accident or illness. A first responder program is a logical and economically feasible way to ensure that prehospital care is available to the rural citizens in the first minutes when life or death may be decided.

(Ord. of 12-7-92(2), § 1; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-52. Requirements for certification of a first responder agency or an individual first responder.

(a) No agency or department shall furnish, operate, conduct, maintain, advertise, be engaged in or profess to be engaged in service as a first responder agency unless that agency holds a currently valid certificate to operate as a first responder issued by the county department of emergency medical services and approved by the county board of commissioners or its designated representative.

(b) No person shall operate, conduct, maintain, advertise, be engaged in or profess to be engaged in business or service of a first responder unless

***Cross reference**—Traffic and vehicles, ch. 74.

State law reference—Authority to support ambulance operations and rescue squads, G.S. 143-517.

that person is affiliated with a certified first responder agency and holds a currently valid medical responder certification issued through the state office of emergency medical services.

(c) All first responder medical agencies will operate under the county emergency medical system plan.

(d) A violation of this section is punishable as a misdemeanor.

(Ord. of 12-7-92(2), § 2; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05; Ord. No. 2021-32, § 7, 12-20-21)

Sec. 26-53. Application and granting process for certification as a first responder or an individual first responder.

(a) Application for a certificate to operate as a first responder agency in the county by an applicant agency shall be filed with the county department of emergency medical services. This application shall be made upon such forms as may be prepared by the county department of emergency medical services and shall contain:

- (1) The name and address of the applicant agency.
- (2) The fire district in which it will operate.
- (3) A plan describing how the agency will respond when dispatched on first responder calls.
- (4) Any information the county department of emergency medical services shall deem reasonably necessary for a fair determination of the capacity/ability of the applicant agency to provide first responder service in the service area in accordance with county requirements.

(b) Upon receipt of an application approved by the county department of the emergency medical services, the advisory board will forward such applications to the county board of commissioners for their approval.

(c) The county board of commissioners shall approve or disapprove all applications for first responder agency status and grant certificates to operate as a first responder agency in the county.

(d) Application for a certificate to function as an individual first responder in the county by an applicant shall be filed with the county department of emergency medical services by the applicant, fire chief or his/her designee with proper approval from the corporate board of directors. This application shall be made upon such forms prepared by the county department of emergency medical services and shall contain:

- (1) The name, age, Social Security number, driver's license number, and address of the applicant individual.
- (2) State medical responder expiration date or state emergency medical technician expiration date.
- (3) The name of the first responder agency with which the applicant individual is to be affiliated.

(e) Upon receipt of application for certificate to operate as an individual first responder in the county, the director of emergency medical services or his designated representative will approve or disapprove all applications based on criteria in section 26-55.

(Ord. of 12-7-92(2), § 3; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-54. Terms of certification as a first responder agency and individual first responder.

(a) A certificate to operate as a first responder agency in the county, and issued by the county department of emergency medical services to an applicant agency will be permanent, with a minimum of four individual first responders. However, either party at its option may terminate the certificate upon 30 days' prior written notice to the other party or immediately upon failure to meet qualification standards.

(b) If any first responder agency or individual first responder shall violate or fail to comply with any provision of these guidelines, notification will be given by the director of the county emergency medical services to the first responder agency fire chief or his/her designee stating the violation and requesting a meeting to resolve the violation. If the violation is not resolved, the

written complaint will be forwarded to the county first responder advisory board for its investigation of the complaint. The first responder advisory board will have the final authority on suspension or revocation of an individual first responder's certification. The board can make a recommendation to the board of county commissioners for suspension or revocation of a first responder agency's certificate.

(c) Upon termination, revocation, or suspension of a certificate to operate as a first responder agency or individual, as determined under this article, the first responder agency or individual shall immediately cease to operate. Termination of a certification for noncompliance to rules must be approved by the county board of commissioners.

(d) If membership drops below that specified in subsection (a) of this section the first responder unit has 120 days to get back to strength. If not, the advisory board will suspend the certification until the number is back to minimum strength. (Ord. of 12-7-92(2), § 4; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-55. Standards for first responder agencies and first responder members.

(a) Each first responder agency and its first responder members shall at all times comply with the requirements of these guidelines, the certification granted pursuant to this article, and all applicable state and local laws relating to health, sanitation, safety, OSHA and all other laws and ordinances, including the state motor vehicle laws when its members are responding to an emergency scene.

(b) To be certified and maintain certification, a first responder individual must:

- (1) Be of suitable character.
- (2) Be at least 18 years of age.
- (3) Have a valid state driver's license and a good driving record, as determined by chief or his designee.
- (4) Be required to show current state medical responder certification.

(c) An individual who possesses a current and valid certification as a state emergency medical technician may be certified as an individual first responder in the county without having to complete a state medical responder course. State certification must remain current and all other requirements of these guidelines must be fulfilled.

(d) First responder personnel will not be exempt from any rules, regulations, or duties of their sponsoring organization. (Ord. of 12-7-92(2), § 5; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-56. Standards for communications.

First responders will be controlled under all current FCC and county fire department radio procedures. (Ord. of 12-7-92(2), § 6; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-57. Standards for dispatch.

(a) County first responder agencies will respond on a 24-hour basis.

(b) County communications will dispatch first responders to respond to accidental or medical emergencies.

(c) The first responder agency or individual will not respond to any calls for assistance unless they notify the county communications center.

(d) Any calls received personally by a first responder agency or individual must be reported first to the county communications center before first responders respond to the call.

(e) The first responder or agency will only be dispatched to emergency situations in their designated first responder area, unless an emergency situation arises where their assistance will be needed.

(f) No first responder or agency will be allowed to cancel a dispatched ambulance unless a patient release has been obtained by the first responder or unless the call is unfounded. If an ambulance is cancelled, the person canceling must identify himself/herself.

(g) A first responder or agency will be allowed to cancel a rescue unit that has been dispatched to an entrapment or pin-in if the situation no longer exists and no additional transport units are needed.

(h) If rescue is cancelled, the person canceling must identify himself/herself.

(i) No more than four first responders per patient shall be at the emergency scene unless the conditions warrant additional first responders. If more than the required number first responders appear at the scene, they shall:

- (1) Be held in reserve in case their services are required.
- (2) Provide traffic control.

(j) If at any time a county emergency medical service vehicle arrives on the scene before the first responder, they may, at their discretion, cancel the first responder en route or slow their response.

(Ord. of 12-7-92(2), § 7; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-58. Standards for patient care by first responder agency and the first responder member.

(a) At the scene of an emergency, the first responder agency shall administer basic life support and first-aid, including the taking of vital signs, to the sick or injured in a way that is consistent with the level of state medical responder training set forth.

(b) At the scene of the emergency and prior to the ambulance provider's arrival, the senior first responder shall be in control of the emergency victim's care provided by that agency and its members.

(c) Upon arriving at the scene of the emergency, the crew on the EMS ambulance shall assume control of the victim's care.

(d) The EMS ambulance crew shall, at their discretion, release the first responders when they feel their service is no longer needed at the emergency scene or may request one or more first responders to assist in the transportation of the patients to the hospital.

(e) The first responders shall act in a professional and courteous manner at all times when administering care to patients.

(f) The first responders and the first responder agency shall be liable for their actions pertaining to the care of the patient prior to the arrival of the ambulance provider.

(Ord. of 12-7-92(2), § 8; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-59. Standards for recordkeeping.

Each first responder agency shall maintain the following records:

(1) Record of patient treatment. For each patient rendered assistance by first responder agency, the following information will be recorded on a patient treatment form:

- a. Name, age, and address of the patient.
- b. Date and time treatment rendered.
- c. Location of treatment rendered.
- d. Patient complaints and condition at the time of treatment rendered.
- e. Patient vital signs and time recorded.
- f. Treatment rendered the patient by the first responder.
- g. Printed names of the first responders who provided patient care.

(2) Two copies of the record of patient treatment shall be given to the EMS ambulance crew when they assume control of the patient's care at the emergency scene.

(Ord. of 12-7-92(2), § 9; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-60. Grievance procedure.

(a) The first responder agency will be responsible for resolving grievances between its own members.

(b) Grievances from a first responder agency toward the county emergency medical services shall be submitted in writing by the first responder

and co-signed by the fire chief or his designee and delivered to the county emergency medical services director.

(c) Grievances from county emergency medical services personnel or county board of commissioners toward a first responder shall be submitted in writing to the county emergency medical services director who shall evaluate the grievance and, if necessary relay it to the fire chief of the appropriate agency.

(d) If the grievance cannot be resolved between the first responder agency and the county emergency medical service a copy of the written grievance will be forwarded to county first responder advisory board for its investigation and ruling.

(e) When a grievance has been ruled upon by the emergency medical services director if the organization or the person against whom the complaint was filed wishes to appeal, that person or organization must go through the proper procedures to get the grievance before the first responder advisory board for their ruling. The person or organization is not to communicate directly with the organization filing the original grievance. Final appeal can be taken to the county board of commissioners.

(Ord. of 12-7-92(2), § 10; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-61. Standards for equipment.

A list of standard equipment for first responders will be provided by Cabarrus County EMS (CCEMS) to each first responder agency. This list will be updated as needed by CCEMS in accordance with local medical director and NC Office of Emergency Medical Service Standards. (Ord. of 12-7-92(2), § 11; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-62. Standards for training.

(a) Standards for training shall be those required by the state office of emergency medical services for medical responders or emergency medical technicians.

(b) Bloodborne pathogen (annually)—one hour. (Ord. of 12-7-92(2), § 12; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-63. Insurance and financing for the first responder program.

The sponsor fire department, a first responder agency, shall secure and maintain insurance for all activities conducted pursuant to this program in a minimum liability/indemnity amount satisfactory to the county and shall hold the county harmless from any and all liability, damages or claims, including attorney's fees, that might be asserted or suffered by the county as a result of any act or omission of any of such respective department's officers, employees, agents or representatives arising out of services performed pursuant to this program. In this regard, on its certificate of insurance provided to the emergency medical services department, a sponsoring fire department shall indicate that its first responders are covered and that the county bears no responsibility for the actions of the respective sponsoring department.

(Ord. of 12-7-92(2), § 13; Ord. No. 2005-02, 5-23-05)

Sec. 26-64. Charges.

There will be no charge for services of a county first responder agency or for first responder individuals acting as first responders. Donations may be accepted.

(Ord. of 12-7-92(2), § 14; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-65. County first responder advisory board.

(a) The county fireman's association board of directors will serve as the county first responder advisory board.

(b) Membership includes the chief of each fire department, chief of the rescue squad, EM director, EMS director, or designee and two delegates from each department/agency.

(c) All agencies will have three votes.

(d) The county medical director under the county EMS plan will provide policy and procedure direction to the advisory board.

(Ord. of 12-7-92(2), § 15; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-66. Operational standards for the county first responder advisory board.

(a) The board will meet quarterly on the second Thursday of March, June, September and December. A 72-hour written notice will be given with time and location noted.

(b) The board will address grievances as described in section 26-60.

(c) The board will evaluate all requests for changes, deletions or additions to first responder program or this article and make recommendations to the county board of commissioners

(d) The board will provide audit and review for the first responder program.

(Ord. of 12-7-92(2), § 16; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-67. Radio communications.

Dispatch of first responders and necessary communications will be as follows:

- (1) Only the dispatch will be on the county fire frequency.
- (2) All communications by first responder will be on the ambulance frequency so that the responding ambulance crew will receive all information without the need for an information relay and all non-relevant communications will be kept off the fire frequency. These communications should be limited to the first responder checking en route (10-17) and arrival (10-23), plus any critical medical information.
- (3) Priority dispatch will be utilized.

(Ord. of 12-7-92(2), § 17; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Sec. 26-68. Advanced life support care.

All first responder organizations that wish to function as an expansion of the county emergency medical service's (EMT) advanced life support (ALS) program must meet the following guidelines:

- (1) The expansion package will be done through the county emergency medical services department.
- (2) First responder organizations must participate in the county emergency medical services department audit and review.
- (3) All ALS call sheets must be forwarded to the county emergency medical services director/assistant director on a monthly basis.
- (4) All training for ALS certification and re-certification will be provided by the county emergency medical services department and will follow county guidelines.
- (5) Names, certifications, and training records of first responder members at the ALS level will be on file with and approved by county emergency medical services department.

(Ord. of 12-7-92(2), § 18; Ord. No. 1998-14, 9-21-98; Ord. No. 2005-02, 5-23-05)

Secs. 26-69—26-80. Reserved.

ARTICLE IV. ALARMS RESPONDED TO BY EMERGENCY RESPONSE AGENCIES

Sec. 26-81. Purpose.

(a) The purpose of this article is to encourage alarm users and alarm businesses to maintain the operational reliability and properly use alarm systems and to reduce or eliminate false alarm dispatch requests.

(b) This article governs users of systems intended to summon law enforcement, fire department or emergency medical services response, requires permits, establishes fees, provides for penalties for violations, establishes a system of administration, and sets conditions for suspension or loss of permits.

(Ord. No. 1998-16, § 1, 12-21-98)

Sec. 26-82. Definitions.

In this article:

Alarm administrator means a person or persons designated by the county manager to administer, control and review alarm applications, permits and alarm dispatch requests.

Alarm business means the business, by an individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring an alarm system in an alarm site.

Alarm dispatch request means a notification to the law enforcement, fire or emergency medical dispatch center by the alarm business that an alarm, either manual or automatic has been activated at a particular alarm site.

Alarm review authority shall mean the Cabarrus County Board of Commissioners.

Alarm site means a single premises or location served by an alarm system or systems. Each tenancy, if served by a separate alarm system in a multi-tenant building or complex shall be considered a separate alarm site.

Alarm system means a device or series of devices, including, but not limited to, systems interconnected with hard wires or with radio frequency signals, which are designed to discourage or detect crime, detect smoke or fire, or summons emergency medical assistance by emitting or transmitting a remote or local audible, visual or electronic signal indicating an alarm condition. Alarm system does not include:

- (1) An alarm installed on a vehicle unless the vehicle is permanently located at a site; or
- (2) An alarm designed to alert only the inhabitants of a premises that does not have a sounding device which can be heard on the exterior of the alarm site.

Alarm user means any person, firm, partnership, corporation or other entity who (which) uses an alarm system at its alarm site.

Chief means the duly appointed chief of a police or fire department.

Conversion means the transaction or process by which one alarm business begins monitoring of an alarm system previously monitored by another alarm business.

False alarm dispatch means an alarm dispatch request to the dispatch center, when the appropriate responding official (law enforcement officer, emergency medical personnel or fire department personnel) finds no evidence of a criminal offense or attempted criminal offense, fire emergency or medical emergency after having completed a timely investigation of the alarm site. An alarm dispatch request which is canceled by the alarm business or the alarm user prior to the time the responding agency representatives reach the alarm site shall not be considered a false alarm dispatch.

Holdup alarm means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

Keypad means a device that allows control of an alarm system by the manual entering of a coded sequence of numbers or letters.

Monitoring means the process by which an alarm business receives signals from alarm systems and relays an alarm dispatch request to the appropriate dispatch center for the purpose of summoning a law enforcement, fire or emergency medical response to the alarm site.

One plus duress alarm means the manual activation of a silent alarm signal by entering at a keypad a code that adds one to the last digit of the normal arm/disarm code (normal code = 1234 one plus duress code = 1235).

Other responsible department head means the department head of a civilian operated emergency dispatch center.

Person means an individual, corporation, partnership, association, organization or similar entity.

Takeover means the transaction or process by which an alarm user takes over control of an existing alarm system which was previously controlled by another alarm user.

Twelve-month period shall be based on calendar months, which period shall run from the occurrence of the first false alarm.

Verify means an attempt, by the alarm business, or its representative, to contact the alarm site by telephonic or other electronic means, whether or not actual contact with a person is made, before requesting a dispatch, in an attempt to avoid an unnecessary alarm dispatch request. (Ord. No. 1998-16, § 2, 12-21-98)

Sec. 26-83. Permit required; application; fee; transferability; false statements.

(a) No alarm user shall operate, or cause to be operated, an alarm system at its alarm site without a valid alarm permit issued by the alarm administrator. A separate permit is required for each alarm site.

(b) The annual fee for a permit or permit renewal for a residential alarm site is \$10.00. The annual fee for a permit or permit renewal for a commercial alarm site is \$15.00. No refund of a permit or permit renewal fee shall be authorized. The initial annual permit fee shall be submitted to the alarm administrator within 15 days after the alarm installation or alarm takeover.

(c) Upon receipt of a completed application form and the permit fee, the alarm administrator shall issue an alarm permit to an applicant unless the applicant has:

- (1) Failed to pay a fine assessed under section 26-93 or,
- (2) Had an alarm permit for the alarm site suspended or revoked, and the violation causing the suspension or revocation has not been corrected.

(d) Each permit application shall include the following information:

- (1) The name, address, and telephone number(s) of the person who will be the permit holder and be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article;

(2) The classification of the alarm site as either residential, commercial or apartment;

(3) For each alarm system located at the alarm site, the purpose of the alarm system, i.e., burglary, holdup, duress, fire, medical or other;

(4) Signed certification from the alarm user stating:

- a. The date of installation, conversion or takeover of the alarm system, whichever is applicable;
- b. The name, address, and phone number of the alarm business performing the alarm system installation, conversion or alarm system takeover and responsible for providing repair service to the alarm system;
- c. The name, address, and phone number of the alarm business monitoring the alarm system if different from the installing alarm business;
- d. Acknowledgment that a set of written operating instructions for the alarm system has been left with the applicant; and
- e. Acknowledgment that the alarm business has trained the applicant and all persons who will be authorized to manipulate the alarm controls, including employees, in proper use of the alarm system, including instructions on how to avoid false alarms.

(e) Any false statement of a material matter made by an applicant for the purpose of obtaining an alarm permit shall constitute cause for refusal to issue a permit.

(f) An alarm permit cannot be transferred to another person. An alarm user shall inform the alarm administrator of any change that alters any information identified on the permit application within five business days.

(g) All fees owed by an applicant shall be paid before a permit may be issued or renewed.

(h) Information contained in permit applications shall be held in confidence by all employees or representatives of the county/city with access to such information.

(i) A violation of this section is punishable as a misdemeanor.

(Ord. No. 1998-16, § 3, 12-21-98; Ord. No. 2021-32, § 7, 12-20-21)

Sec. 26-84. Alarm systems in apartment complexes—Contracted for by individual tenant.

(a) If an alarm system installed by an individual tenant in an apartment complex unit is monitored or repaired, the tenant shall provide the name of a representative of the apartment owner or property manager who can grant access to the apartment to the alarm business which is providing the monitoring or repair service.

(b) A tenant of an apartment complex shall also obtain an alarm permit from the alarm administrator before operating or causing the operation of an alarm system in the tenant's residential unit. The annual fee for this permit or the renewal of this permit shall be the same as the fee for a residential alarm site.

(c) For purposes of enforcing this article against an individual residential unit, the tenant shall be responsible for false alarm dispatches emitted from the alarm system in the tenant's residential unit.

(d) A violation of this section is punishable as a misdemeanor.

(Ord. No. 1998-16, § 3.1, 12-21-98; Ord. No. 2021-32, § 7, 12-20-21)

Sec. 26-85. Alarm systems in apartment complexes—Furnished by the apartment complex as an amenity.

(a) If the owner or property manager of an apartment complex provides alarm systems in each residential unit as an amenity, then the owner or property manager of the apartment

complex shall obtain a master alarm permit from the alarm administrator. The annual fee for this permit and for each renewal of this permit shall be \$20.00.

(b) For purposes of assessing fees and enforcing this article, the master alarm permit holder shall pay those fees for false alarm dispatches emitted from the alarm systems in residential units.

(c) The owner or property manager of an apartment complex shall obtain a separate alarm permit for any alarm system operated in a nonresidential area of the apartment complex, including, but not limited to, common tenant areas and office, storage and equipment areas. An annual fee for such a permit shall be the same as the fee for a commercial alarm site.

(d) A violation of this section is punishable as a misdemeanor.

(Ord. No. 1998-16, § 3.2, 12-21-98; Ord. No. 2021-32, § 7, 12-20-21)

Sec. 26-86. Permit duration and renewal.

A permit shall expire one year from the date of issuance, and shall be renewed annually by submitting an updated application and a permit renewal fee to the alarm administrator. The alarm administrator shall notify each alarm user of the need to renew 30 days prior to the expiration of the permit. The alarm user shall submit an application prior to the permit expiration date. Failure to renew shall constitute use of a non-permitted alarm system and citations and penalties shall be assessed without waiver. A violation of this section is punishable as a misdemeanor.

(Ord. No. 1998-16, § 4, 12-21-98; Ord. No. 2021-32, § 7, 12-20-21)

Sec. 26-87. Proper alarm systems operation and maintenance.

- (a) An alarm user shall:
 - (1) Maintain the premises and the alarm system in a manner that minimizes or eliminates false alarm dispatches, and
 - (2) Make every reasonable effort to have a proper house number posted in accordance

with the county road name/house number ordinance. This number shall be posted so as to meet or exceed this article, and shall in all cases, be visible from the roadway under adverse weather conditions.

- (3) Make sure that the directions given to the alarm monitoring station are accurate, clear and concise. Further, in the event of an alarm activation the appropriate alarm key holder shall make every reasonable effort to respond or cause a representative to respond to the alarm system's location within 30 minutes when notified by the county/city to deactivate a malfunctioning alarm system, to provide access to the premises, or to provide security for the premises, and
- (4) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system is intended to report provided, that in the event of manual activation for the purpose of testing the alarm, the alarm user shall first notify the sheriff's department of such test.

(b) An alarm user shall adjust the mechanism or shall cause the mechanism to be adjusted so that a burglar alarm signal audible on the exterior of an alarm site sounds for no longer than ten minutes after being activated (or 15 minutes for systems operating under Underwriters Laboratories, Inc. standards 365 or 609). Fire alarm audible signals may sound until manually reset.

(c) A violation of this section is punishable as a misdemeanor.
(Ord. No. 1998-16, § 5, 12-21-98; Ord. No. 2021-32, § 7, 12-20-21)

Sec. 26-88. Monitoring procedures.

- (a) An alarm user shall:
 - (1) Report alarm signals by using telephone numbers designated by the alarm administrator;
 - (2) Ascertain that an attempt is made to verify every alarm signal, except a duress

or hold up alarm activation before or during the request for a law enforcement response to an alarm signal;

- (3) Verify that the alarm monitoring service shall communicate alarm dispatch requests to the appropriate dispatch center in a uniform manner and form determined by the alarm administrator;
 - (4) Verify that the alarm monitoring service can communicate verified cancellations of alarm dispatch requests to the appropriate dispatch center in a manner and form determined by the alarm administrator.
- (b) The alarm administrator shall:
- (1) Designate the manner, form and telephone numbers for the communication of alarm dispatch requests which shall be provided to the user as guidance for the alarm system installer;
 - (2) Develop a procedure to accept verified cancellation of alarm dispatch requests.
 - (3) Advise all alarm businesses and users that no alarm systems which have dialers that dial directly into administrative or 911 telephone lines will be accepted. Installation and/or activation of such systems shall result in the issuance of fees and citations being issued to the parties as non-permitted alarm systems.

(c) A violation of this section is punishable as a misdemeanor.
(Ord. No. 1998-16, § 6, 12-21-98; Ord. No. 2021-32, § 7, 12-20-21)

Sec. 26-89. Duties of alarm business.

(a) After 1998 (or the effective date of this article [March 1, 1999]) alarm users shall neither request nor allow alarm businesses to program alarm systems so that they are capable of sending one plus duress alarms. Alarm businesses may continue to report one plus duress alarms received from alarm systems programmed with this feature prior to the effective date of this article [March 1, 1999]. After the effective date of this article [March 1, 1999], when performing a takeover or conversion an alarm user shall

request the removal of the one plus duress alarm capability from the alarm system being taken over or converted.

(b) After the effective date of this article [March 1, 1999], alarm users shall not allow alarm businesses to install a device for activating a hold-up alarm which is a single action non recessed button.

(c) Alarm systems that provide for direct dialing over telephone lines to a dispatch center and the delivery of a pre-recorded message are prohibited in Cabarrus County. Such installation by an alarm business and use by an alarm system owner is punishable as a misdemeanor. (Ord. No. 1998-16, § 7, 12-21-98; Ord. No. 2021-32, § 7, 12-20-21)

Sec. 26-90. Alarm system operating instructions.

An alarm user shall maintain at each alarm site, a set of written operating instructions for each alarm system. A violation of this section is punishable as a misdemeanor. (Ord. No. 1998-16, § 8, 12-21-98; Ord. No. 2021-32, § 7, 12-20-21)

Sec. 26-91. Alarm dispatch request records.

(a) The officer or official responding to an alarm dispatch request shall record such information as is necessary to permit the alarm administrator to maintain those records, which shall include, but are not limited, to the following information:

- (1) Identification of the permit number for the alarm site;
- (2) Identification of the alarm site;
- (3) Arrival time at the alarm site and dispatch received time;
- (4) Date, and time;
- (5) Weather conditions;
- (6) Area and/or sub-area of premise involved;
- (7) Name of alarm user's representative on premises, if any;

- (8) Identification of the responsible alarm business, and/or;
- (9) Unable to locate the address.

(b) The responding officer or official shall indicate on the dispatch record whether the dispatch was arose from a criminal offense, an attempted criminal offense, an actual fire or medical emergency, or a false alarm dispatch.

(c) In the case of an assumed false alarm dispatch, the responding officer(s) shall leave a notice at the alarm site that the department has responded to a false alarm dispatch. The notice shall include the following information:

- (1) The date and time of response to the false alarm dispatch;
- (2) The identification number of the responding officer, and;
- (3) A statement urging the alarm user to ensure that the alarm system is properly operated, inspected, and serviced in order to avoid fines.

(d) For a period of at least one year (or longer if required by their license) following a request for dispatch to an alarm site, the alarm businesses which performs monitoring services shall maintain record relating to the dispatch. Records shall include the name, address of the alarm user, the system zone(s) or point(s) activated, the time of request for dispatch and evidence that prior to the request for dispatch, an attempt to verify was made to the alarm site. The alarm administrator may request copies of such records for individually named alarm users.

(Ord. No. 1998-16, § 9, 12-21-98)

Sec. 26-92. System performance reviews.

If the alarm administrator has reason to believe that an alarm system is not being used or maintained in a manner that ensures proper operation and suppresses false alarms, he/she may require a conference with an alarm user and may request the user to have the alarm business responsible for the repair of the alarm system present to review the circumstances of each false alarm.

(Ord. No. 1998-16, § 10, 12-21-98)

Sec. 26-93. False alarm administrative processing fees.

(a) An alarm user or the master permit holder for an apartment complex shall be subject to administrative processing fees, warnings and suspension or revocation of permit depending on the number of false alarm dispatches emitted from an alarm system within a 12-month period based upon the following schedule:

<i>Number of False Alarm Dispatches</i>	<i>Action Taken</i>	<i>Fees</i>
1	On site written notice and warning letter #1	0
2	On site written notice and warning letter #2	0
3	On site written notice and assessment of fine	\$50.00
	Required site inspection and meeting with alarm administrator	
4—7	On site written notice and suspension of permit	\$100.00*
8—11	On site written notice and warning letter	\$150.00*
12—15	On site written notice and revocation of permit	\$200.00*
16	On-site written notice and possible criminal action	\$400.00*
*Fees shall be for each occurrence of a false alarm dispatch.		

(b) Any person, operating a non-permitted alarm system (whether revoked, suspended or never acquired) will be subject to punishment as a misdemeanor and an administrative processing fee of \$200.00 for each false alarm dispatch, in addition to any other fines.

(c) Alarm dispatch requests caused by actual criminal offense, attempted criminal offense, actual fire or emergency medical situation, natural events (electrical storms) or events caused by man (other than alarm user) which can be determined to have caused the alarm activation shall not constitute a false alarm dispatch.

(d) The alarm administrator may reinstate a suspended permit upon receipt of acceptable evidence that the cause of the suspension has been addressed and appropriate corrective action has been taken as outlined in section 26-97.

(e) All administrative processing fees shall be payable in and to the Cabarrus County Fire Marshal's Office.

(Ord. No. 1998-16, § 11, 12-21-98; Ord. No. 2021-32, § 7, 12-20-21)

Sec. 26-94. Appeal from administrative processing fees.

(a) An alarm user may appeal assessment of an administrative processing fee to the alarm administrator by filing a written request for

hearing identifying the basis for the appeal within ten days after assessment of the fee. The filing of a request for an appeal hearing with the alarm administrator shall stay the assessment of the fee until the alarm administrator, or alarm review authority on appeal, makes a final decision.

(b) The alarm administrator shall review the circumstances surrounding the issuance of the fee assessment and may conduct a formal hearing and consider the evidence presented by any interested person(s). The alarm administrator shall enter his/her decision on the preponderance of evidence found through his/her assessment of the circumstances or presented at the hearing including, but not limited to, evidence that a false alarm dispatch arose from a defective part that has been repaired or replaced or that an alarm dispatch request arose from an actual emergency. The alarm administrator shall render a decision within 30 days after the receipt of the request for a review. The alarm administrator shall affirm, reverse or modify the assessment of the fee. The decision of the alarm administrator may be appealed to the alarm review authority if written notice is given to the authority within 20 days after he/she renders a

decision on the appeal. Actions and decisions by the alarm review authority are final administrative decisions by the county. (Ord. No. 1998-16, § 12, 12-21-98)

Sec. 26-95. Revocation, suspension or loss of alarm permit.

(a) In addition to suspension or revocation pursuant to section 26-93, the alarm administrator may suspend or revoke an alarm permit if he/she determines that:

- (1) There is a false statement of a material matter in the application for a permit;
- (2) The permit holder has failed to make timely payment of a fee assessed under section 26-93(b), or;

(b) A person shall commit an offense if he operates an alarm system during the period in which his alarm permit is suspended or revoked. A violation of this subsection is punishable as a misdemeanor.

(c) Unless there is separate indication that there is a crime in progress or there is an actual fire or emergency medical need, the sheriff/ chief/ or other responsible department head who has command authority for the dispatch center may refuse to dispatch law enforcement, fire or emergency medical response to an alarm dispatch request at an alarm site for which the alarm permit is revoked, suspended or has never been issued.

(d) If the alarm permit is reinstated pursuant to section 26-97, the alarm administrator may revoke the alarm permit if it is determined that three subsequent false alarm dispatches occur within 60 days after the reinstatement date. (Ord. No. 1998-16, § 13, 12-21-98; Ord. No. 2021-32, § 7, 12-20-21)

Sec. 26-96. Appeal from denial, suspension or revocation of a permit.

(a) If the alarm administrator denies the issuance or renewal of a permit, or suspends or revokes a permit, he/she shall send written notice of this action and a statement of the right to an appeal, by certified mail, return receipt requested, to both the applicant or alarm user

and the alarm business. The applicant or alarm user may appeal the decision of the alarm administrator to the alarm review authority by filing a written request for a review setting forth the reasons for the appeal within 20 days after receipt of the notice from the alarm administrator. An alarm business may submit the request for review on behalf of an alarm user.

Filing of a request for appeal shall stay the action by the alarm administrator suspending or revoking a permit until the alarm review authority has completed the review. If a request for appeal is not made within the 20 period, the action of the alarm administrator is final.

(b) The alarm review authority shall conduct a formal hearing and consider the evidence offered by any interested person(s). The authority shall make a decision on the basis of a preponderance of the evidence presented at the hearing including, but not limited to, certification that alarm users have been retrained, that a defective part has been repaired or replaced, or that the cause of the false alarm has been otherwise determined and corrected. The authority shall render a written decision within 30 days after the request for an appeal hearing is filed. The authority may affirm, reverse, or modify the action of the alarm administrator. The decision of the authority is a final administrative decision of the county.

(Ord. No. 1998-16, § 14, 12-21-98)

Sec. 26-97. Reinstatement of permit.

A person whose alarm permit has been revoked may be issued a new permit if the person:

- (1) Submits an updated application and pays a \$100.00 permit fee, and;
- (2) Pays, or otherwise resolves, all citations and fees, and;
- (3) Submits a certification from an alarm business, that complies with the requirements of this article, stating that the alarm system has been inspected and repaired (if necessary) by the alarm business.

(Ord. No. 1998-16, § 15, 12-21-98)

Sec. 26-98. Penalty fee waiver.

The alarm administrator may waive the penalty fee within 15 working days from date of citation, if the subscriber can produce an original invoice for work conducted to repair the alarm system, in an amount equal to or greater than the imposed penalty fee amount.

(Ord. No. 1998-16, § 16, 12-21-98)

Sec. 26-99. Reserved.

Editor's note—Ord. No. 2021-32, § 7, adopted Dec. 20, 2021, repealed § 26-99, which pertained to violations and derived from Ord. No. 1998-16, § 17, 12-21-98.

Chapters 27–29

RESERVED

Chapter 30

ENVIRONMENT*

Article I. In General

Secs. 30-1—30-25. Reserved.

Article II. Noise

Sec. 30-26. Reserved.

Sec. 30-27. Enumeration of prohibited acts.

Sec. 30-28. Permits for sound amplification.

***Cross reference**—Sedimentation, pollution control, § 66-72.

State law reference—Pollution control and environment, G.S. 113A-1 et seq.

ARTICLE I. IN GENERAL

Secs. 30-1—30-25. Reserved.

ARTICLE II. NOISE*

Sec. 30-26. Reserved.

Editor's note—Ord. No. 2021-32, § 8, adopted Dec. 20, 2021, repealed § 30-26, which pertained to penalty for violation of article and derived from Ord. of 6-7-82, § 2.

Sec. 30-27. Enumeration of prohibited acts.

(a) Subject to the provisions of this article, the creation of any unreasonable loud, disturbing and unnecessary noise of such character as would be a detriment to public health, comfort, safety, welfare and prosperity of the residents of the county is prohibited.

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

- (1) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal; the creation by means of any such signal device of any unreasonable loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- (2) The playing of any radio, phonograph or any musical instrument in such a manner or with such volume, particularly during hours between 11:00 p.m. and 7:00 a.m. as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel or other type of residence.
- (3) The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in

*State law reference—Authority to regulate noise, G.S. 153A-133.

such manner as to create loud or unnecessary grating, grinding, rattling or other noise.

- (4) The creation of any excessive and unreasonable 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 services, which unreasonably interferes with the working of such institution.
- (5) The shouting and crying of peddlers, hawkers, vendors, which disturbs the quiet and peace of the neighborhood.
- (6) The use of any drum, loudspeaker or other instrument or device for any performance, show, sale, display or advertisement of merchandise, or any other commercial or noncommercial purpose, unless a permit for sound amplification has been obtained from the sheriff's department in accordance with section 30-28 of this article.
- (7) The display of fireworks after the hour of 9:00 p.m., Sunday through Thursday, and after the hour of 11:00 p.m., Friday and Saturday. Exception is made for New Year's Eve, when fireworks may be displayed until 12:45 a.m. on New Year's Day, and for Independence Day, when fireworks may be displayed until 11:00 p.m.

(c) A violation of this section is punishable as a misdemeanor.
(Ord. of 6-7-82, § 1; Ord. No. 1999-03, 5-17-99; Ord. No. 2001-01, 2-19-01; Ord. No. 2021-32, § 8, 12-20-21)

Sec. 30-28. Permits for sound amplification.

(a) *Application.* The application for a permit for sound amplification under section 30-27 may be obtained from the sheriff's department or the clerk to the board of county commissioners. Completed applications shall be submitted to the sheriff's department at least 15 working days in advance of the planned use except in case of

emergency. The applicant for a permit shall be responsible for sending a notice by certified and regular mail or by otherwise delivering the notice to the owners or occupants of each property within 500 feet of the parcel of real estate for which a permit has been applied. The notice shall state the type of event and date and hours of the event. The notice shall be sent on a form approved by the sheriff's office and shall be delivered at least 72 hours in advance of the event. The permit shall not be granted and issued until the applicant submits an affidavit satisfactory to the sheriff's office that such notices have actually been mailed or otherwise delivered. The applicant must attach to the affidavit a listing of the names of the owners or occupants and the street addresses of the properties notified pursuant to this section.

(b) *Review.* The application shall be reviewed by the sheriff or the sheriff's designee. The applicant will be notified of the approval or denial of the permit within three working days from the time the application was filed. If the application is approved, the permit shall include, among other things, the name or names of the individual person or persons who shall be in control of the sound amplification equipment and the date, time and nature of the event. If the permit is not granted, the reason for the denial shall be put in written form and delivered to the applicant.

(c) *Denial; exceptional permit.* If an applicant has been denied a permit under this section and believes the denial is illegal by virtue of applicable state or federal law, he shall promptly submit a copy of the denied permit application together with a short statement of the reasons he believes he is entitled to a permit to the sheriff. The sheriff shall have the discretion to grant an exceptional permit waiving locational and time requirements, upon his determination that the applicant has made a substantial showing of legal entitlement.

(Ord. No. 1999-03, 5-17-99; Ord. No. 2009-10, 6-15-09)

Chapter 31

RESERVED

Chapter 32

FARMLAND PRESERVATION

Article I. In General

- Sec. 32-1. Title.
- Sec. 32-2. Authority.
- Sec. 32-3. Purpose.
- Sec. 32-4. Definitions.
- Secs. 32-5—32-20. Reserved.

Article II. Agricultural Advisory Board

- Sec. 32-21. Creation.
- Sec. 32-22. Membership.
- Sec. 32-23. Membership requirements.
- Sec. 32-24. Tenure.
- Sec. 32-25. Vacancies.
- Sec. 32-26. Removal.
- Sec. 32-27. Funding.
- Sec. 32-28. Advisory board procedure.
- Sec. 32-29. Duties.
- Secs. 32-30—32-40. Reserved.

Article III. Creation of Voluntary Agricultural Districts

- Sec. 32-41. Regions.
- Sec. 32-42. Implementation.
- Sec. 32-43. Education.
- Sec. 32-44. Addition and withdrawal.
- Secs. 32-45—32-60. Reserved.

Article IV. Procedures; Hearings; Notification

- Sec. 32-61. Certification and qualification of farmland.
- Sec. 32-62. Application procedure.
- Sec. 32-63. Approval process.
- Sec. 32-64. Appeal.
- Sec. 32-65. Revocation and renewal of preservation agreement.
- Sec. 32-66. Public hearings.
- Sec. 32-67. Notification.
- Sec. 32-68. Subdivision ordinance and zoning ordinance review.
- Sec. 32-69. Waiver of water and sewer assessments.
- Sec. 32-70. County land-use planning.
- Sec. 32-71. Consultation authority.
- Sec. 32-72. North Carolina Agency notification.
- Sec. 32-73. Conflict with other ordinances and statutes.

ARTICLE I. IN GENERAL

Sec. 32-1. Title.

An ordinance of the Board of County Commissioners of Cabarrus County, North Carolina, entitled, "Voluntary Agricultural District Ordinance" and "The Enhanced Voluntary Agricultural District Ordinance."

(Ord. No. 2005-20, Art. I, 11-21-05)

Sec. 32-2. Authority.

The articles and sections of this chapter are adopted pursuant to authority conferred by the G.S. 106-735 through 106-744 and Chapter 153A. In conjunction with Ratified House Bill 607.

(Ord. No. 2005-20, Art. II, 11-21-05)

Sec. 32-3. Purpose.

The purpose of this chapter is to promote agricultural values and the general welfare of the county and more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture; and increase protection from non-farm development and other negative impacts on properly managed farms.

Enhanced voluntary agricultural district. The enhanced voluntary agricultural district ordinance creates a district that will provide greater benefits to farmers than the current program. Participating farms will be allowed to receive up to 25 percent of their gross sales from certain types of non-farm products and still qualify for agricultural zoning exemptions and be eligible for a higher percentage of cost-share program funding and have priority for other state grant programs.

(Ord. No. 2005-20, Art. III, 11-21-05)

Sec. 32-4. Definitions.

The following are defined for purposes of this chapter:

Advisory board: Cabarrus County Agricultural Advisory Board.

Chairperson: Chairperson of the Cabarrus County Agricultural Advisory Board.

District: Voluntary agricultural district as established by this chapter.

Board of commissioners: Cabarrus County Board of Commissioners.

(Ord. No. 2005-20, Art. IV, 11-21-05)

Secs. 32-5—32-20. Reserved.

ARTICLE II. AGRICULTURAL ADVISORY BOARD

Sec. 32-21. Creation.

The board of commissioners shall establish an agricultural advisory board to implement the provisions of this program.

(Ord. No. 2005-20, Art. V(A), 11-21-05)

Sec. 32-22. Membership.

The advisory board shall consist of no less than seven members appointed by the board of commissioners.

(Ord. No. 2005-20, Art. V(B), 11-21-05)

Sec. 32-23. Membership requirements.

(a) Each advisory board member shall be a Cabarrus County resident or landowner.

(b) At least four of the members shall be actively engaged in farming.

(c) At least one of the advisory board members actively engaged in farming shall be nominated by the Cabarrus County Soil and Water Conservation District Board of Supervisors.

(d) The members actively engaged in farming, as well as other members, shall be selected for appointment by the board of commissioners from the names of individuals submitted to the board of commissioners by the Cabarrus County Soil and Water Conservation District Board of Supervisors, the Cabarrus County Cattlemen's Association, the county office of the North Carolina Cooperative Extension Service, St. John's Grange, Piedmont Farmer's Market, Cabarrus County Farm Bureau, the Natural Resource Conservation Service, the U.S. Farm Service Agency County Com-

mittee, nonprofit agricultural organizations, conservation organizations, agribusiness, and the public at large.

(e) The planning and zoning commission eastern area representative will hold an ex-officio seat on the agricultural advisory board.

(Ord. No. 2005-20, Art. V(C), 11-21-05)

Sec. 32-24. Tenure.

The initial board is to consist of two appointees for terms of one year; two appointees for terms of two years; and three appointees for terms of three years. Thereafter, all appointments are to be for terms of three years, with reappointment permitted.

(Ord. No. 2005-20, Art. V(D), 11-21-05)

Sec. 32-25. Vacancies.

Any vacancy on the advisory board is to be filled by the board of commissioners for the remainder of the unexpired term.

(Ord. No. 2005-20, Art. V(E), 11-21-05)

Sec. 32-26. Removal.

Any member of the advisory board may be removed by the board of commissioners upon a two-thirds vote of the commissioners. No cause for removal shall be required. Appropriate conduct by advisory board members will be required.

(Ord. No. 2005-20, Art. V(F), 11-21-05)

Sec. 32-27. Funding.

The per diem compensation, if any, of the members of the advisory board may be fixed by the board of commissioners and funds may be appropriated to the advisory board to perform its duties.

(Ord. No. 2005-20, Art. V(G), 11-21-05)

Sec. 32-28. Advisory board procedure.

(a) *Chairperson.* The advisory board shall elect a chairperson and vice-chairperson each year at its first meeting of the calendar year. The chairperson shall preside over all regular or special meetings of the advisory board. In the absence or disability of the chairperson, the vice-chairperson

shall preside and shall exercise all the powers of the chairperson. Additional officers may be elected as needed.

(b) *Jurisdiction.* The advisory board may adopt rules of procedure not inconsistent with this ordinance or with other provisions of state law.

(c) *Advisory board year.* The advisory board shall use the calendar year as its meeting year.

(d) *Meetings.* Meetings of the advisory board shall be held at the call of the chairperson and at such other times as the advisory board may specify in its rules of procedure or upon the request of at least a majority of the advisory board membership. A meeting shall be held at least annually and notice of any meetings to the members shall be in writing, unless otherwise agreed to by all advisory board members. Meeting dates and times shall be posted as far in advance as possible on the door of the meeting site and by advertisement in local newspapers or by other means of public dissemination of the meeting dates as may be agreed upon by at least a majority of the advisory board membership. All meetings shall be open to the public. The Cabarrus County Commissioners have the right to call a meeting of the agricultural advisory board at any time for any reason.

(e) *Majority vote.* All issues shall be decided by a majority vote of the members of the advisory board, except as otherwise stated herein.

(f) *Records.* The advisory board shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the advisory board and shall be a public record.

(g) *Administrative.* The advisory board may contract with the North Carolina Cooperative Extension Cabarrus County Center to serve the board for record keeping, correspondence, application procedures under this chapter, and whatever services the board needs to complete its duties.

(Ord. No. 2005-20, Art. V(H), 11-21-05; Ord. No. 2006-10, 6-19-06)

Sec. 32-29. Duties.

The advisory board shall:

- (1) Review and approve applications for qualified farmland and voluntary agricultural districts or enhanced voluntary agricultural districts and make recommendations concerning the establishment and modification of these agricultural districts;
- (2) Conduct public hearings;
- (3) Advise the board of commissioners on projects, programs, or issues affecting the agricultural economy or activities within the county that will affect agricultural districts;
- (4) Review and make recommendations concerning proposed amendments to this chapter;
- (5) Develop a draft county wide farmland protection plan as defined in N.C.G.S. § 106-744(e)(1) for presentation to the board of commissioners;
- (6) Study additional methods of farmland preservation and make recommendations to the board of commissioners; and
- (7) Perform other agricultural related tasks or duties assigned by the board of commissioners.

(Ord. No. 2005-20, Art. V(I), 11-21-05)

Secs. 32-30—32-40. Reserved.**ARTICLE III. CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS****Sec. 32-41. Regions.**

Cabarrus County is hereby divided into three regions as defined below:

- (1) Northwest.
 - (2) Eastern Cabarrus.
 - (3) Midland.
- (Ord. No. 2005-20, Art. VI(A), 11-21-05)

Sec. 32-42. Implementation.

In order to implement the purposes stated in section 32-3, this program provides for the creation of voluntary agricultural districts or enhanced voluntary agricultural districts which meet the following standards:

- (1) The district shall contain a minimum of 20 contiguous acres of qualified farmland; or
- (2) The district shall contain two or more qualified farms within areas designated by the advisory board.

All land enrolled in a region, defined in section 32-41, above, shall be part of a single district. If a single farm has acreage in two or more regions, the farm shall participate in the district where the largest acreage is found. (Ord. No. 2005-20, Art. VI(B), 11-21-05)

Sec. 32-43. Education.

The county may take such action as it deems appropriate through the advisory board or other entities or individuals to encourage the formation of the districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the agricultural district program. The county may contract with the North Carolina Cooperative Extension to serve as the educational advisor and organization charged with delivering this educational program.

(Ord. No. 2005-20, Art. VI(C), 11-21-05)

Sec. 32-44. Addition and withdrawal.

(a) Qualifying farmland in a region with an existing district shall be added to the district as herein provided.

(b) In the event that one or more participants in the district withdraw and the acreage in the district becomes less than the minimum acreage required or results in the remaining land being noncontiguous, a voluntary agricultural district will continue to exist so long as there is one qualifying farm.

(c) *Enhanced voluntary agricultural districts* require a conservation agreement between Cabarrus County Government and the agricultural producer that cannot be revoked for at least ten years.
(Ord. No. 2005-20, Art. VI(D), 11-21-05)

Secs. 32-45—32-60. Reserved.

ARTICLE IV. PROCEDURES; HEARINGS; NOTIFICATION

Sec. 32-61. Certification and qualification of farmland.

In order for farmland to qualify for inclusion into the voluntary agricultural district or the enhanced voluntary agricultural district, it must be real property that:

- (1) Is engaged in agriculture as that word is defined in G.S. 106-581.1.1.
- (2) Be the subject of a conservation agreement as defined in G.S. 121-35, between the county and the owner of such land that prohibits non-farm use or development of such land for at least ten years, except for the creation of not more than three lots that meet applicable county zoning and subdivision regulations.
- (3) Agree to the conservation agreement between Cabarrus County and the owner that the enhanced voluntary agricultural district cannot be revoked for at least ten years.

(Ord. No. 2005-20, Art. VII, 11-21-05; Ord. No. 2016-04, 3-21-16)

Sec. 32-62. Application procedure.

(a) A landowner may apply to participate in either program by making application to the chairperson of the advisory board or a designated staff person. The application shall be on forms provided by the advisory board. The application to participate in a district may be filed with the certification for qualifying farmland.

(b) A conservation agreement to sustain, encourage, and promote agriculture must be executed by the landowner and recorded with the advisory board. Permitted uses include agriculture, horticulture, forestry, and outdoor recreation.
(Ord. No. 2005-20, Art. VIII(A), 11-21-05)

Sec. 32-63. Approval process.

(a) Upon submission of the application to the advisory board, the advisory board shall meet quarterly to approve or disapprove the application. The chairperson shall notify the applicant by first class mail of approval or disapproval of participation in the district.

(b) Upon receipt of an application, the chairperson will forward copies immediately to the following offices which shall be asked to provide comments, if any, to the advisory board prior to the date set for the advisory board vote on the application.

- (1) The Cabarrus County Tax Assessor;
- (2) The Cabarrus Soil and Water Conservation District office;
- (3) The Natural Resources Conservation Service; and
- (4) The North Carolina Cooperative Extension Office; and
- (5) The Cabarrus County Commerce Department.

(Ord. No. 2005-20, Art. VIII(B), 11-21-05)

Sec. 32-64. Appeal.

If an application is denied by the advisory board, the petitioner shall have 30 days to appeal the decision to the board of commissioners. Such appeal shall be presented in writing. The decision of the board of commissioners is final.

(Ord. No. 2005-20, Art. VIII(C), 11-21-05)

Sec. 32-65. Revocation and renewal of preservation agreement.

(a) *Revocation.* By providing 30 days advance written notice to the advisory board, a landowner of qualifying farmland may revoke the preserva-

tion agreement or the advisory board may revoke the same preservation agreement based on noncompliance by the landowner, subject to the same provisions as contained in section 32-64 for appeal of denials. Such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a district. Absent noncompliance by the landowner, neither the advisory board nor the board of commissioners shall revoke any preservation agreements prior to its expiration.

In the event of the original landowner's death, any surviving heirs have the same 30 days advance written notice consideration for removal from the preservation agreement as stated above.

(b) *Renewal*. Properties entered into the voluntary agricultural district or the enhanced voluntary agricultural district shall be deemed automatically renewed for an additional term of ten years on July 1 of the tenth anniversary year, unless either the advisory board or the landowner gives written notice no later than 30 days prior to the termination date. Notification of automatic renewal will be sent to qualifying land owners a minimum of 60 days prior to the renewal date. (Ord. No. 2005-20, Art. IX, 11-21-05; Ord. No. 2016-04, 3-21-16)

Sec. 32-66. Public hearings.

(a) *Purpose*. Pursuant to G.S. 106-740, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a district until such agency or unit has requested the advisory board to hold a public hearing on the proposed condemnation.

(b) *Procedure*.

(1) Upon receiving a request, the advisory board shall publish notice describing the proposed action in the appropriate newspapers of Cabarrus County within five business days of the request, and will in the same notice notify the public of a public hearing on the proposed condemnation, to be held within ten days of receipt of the request.

- (2) The advisory board shall meet to review:
 - a. Whether the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved; and
 - b. Whether there are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the district within which the proposed action is to take place.
- (3) The advisory board shall consult with the county agricultural extension agent, the natural resources conservation service district conservationist, and any other individuals, agencies, or organizations deemed by the advisory board to be necessary for its review of the proposed action.
- (4) Within five days after the hearing, the advisory board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public prior to its being conveyed to the decision-making body of the agency proposing the acquisition.
- (5) There will be a period of ten days allowed for public comment on the report of the advisory board.
- (6) After the ten day period for public comment has expired, the advisory board shall submit a final report containing all of its findings and recommendations regarding the proposed action to the decision making body of the agency proposing the acquisition.
- (7) The total time period, from the day that a request for a hearing has been received to the day that a final report is issued to the decision making body of the agency proposing the acquisition, shall not exceed 30 days. If the agency agrees to an extension, the agency and the advisory

board shall mutually agree upon a schedule to be set forth in writing and made available to the public.

- (8) Pursuant to G.S. 106-740, the board of commissioners shall not permit any formal initiation of condemnation by local agencies while the proposed condemnation is properly before the advisory board.

(Ord. No. 2005-20, Art. X, 11-21-05)

Sec. 32-67. Notification.

(a) *Record notice of proximity to voluntary agricultural district.*

- (1) *Procedure.* When Cabarrus County computerizes its county land records system the following requirements outlined in this section shall be implemented and enforced. Upon certification of qualifying farmland and designation of real property as a district, the title to that qualifying farmland and real property, which is contained in the Cabarrus County Land Records System shall be changed to include a notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half aerial mile of a voluntary agricultural district.

- (2) *Limit of liability.* In no event shall the county or any of its officers, employees, members of the advisory board, or agents be held liable in damages for any misfeasance, malfeasance, or malfeasant occurring in good faith in connection with the duties or obligations imposed by this chapter.

- (3) *No cause of action.* In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this chapter.

(b) *Signage.* Signs identifying approved agricultural districts shall be placed along the rights-of-way of major roads that pass through or next to those districts. There shall at least one

sign posted along every ten miles of such roads or as many as may be deemed appropriate by the advisory board, or its administrative agent for the county's agricultural district program. Placement of signage shall be coordinated with the N.C. Department of Transportation.

(c) *Maps.* Maps identifying approved agricultural districts shall be provided to the following agencies or offices:

- (1) Commerce (planning) department;
- (2) Register of deeds;
- (3) Natural resources conservation service;
- (4) North Carolina cooperative extension service;
- (5) Soil and water conservation district; and
- (6) Any other such agency or office the advisory board deems appropriate.

(Ord. No. 2005-20, Art. XI, 11-21-05)

Sec. 32-68. Subdivision ordinance and zoning ordinance review.

Developers of major subdivisions or planned unit developments shall designate on preliminary development plans, the existence of the districts within ten aerial mile(s) of the proposed development.

(Ord. No. 2005-20, Art. XII, 11-21-05)

Sec. 32-69. Waiver of water and sewer assessments.

(a) *No connection required.* A landowner belonging to the district shall not be required to connect to Water and Sewer Authority of Cabarrus County water and/or sewer systems.

(b) *Abeyance.* Water and sewer assessments shall be held in abeyance, without interest, for farms in an agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.

(c) *Termination of abeyance.* When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

(d) *Suspension of statute of limitations.* Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.

(e) *Other statutory abeyance procedures.* Nothing in this section is intended to diminish the authority of the county to hold assessments in abeyance under G.S. 153A-201, or other applicable law.

(f) *Conflict with water and/or sewer system construction and improvements grants.* To the extent that this section conflicts with the terms of federal, state, or other grants under which county water and/or sewer systems are constructed this section shall not apply.
(Ord. No. 2005-20, Art. XIII, 11-21-05)

Sec. 32-70. County land-use planning.

(a) *Duty of the advisory board.* It shall be the duty of the advisory board to advise the board of commissioners or the agency or office to which the board of commissioners delegate authority to oversee county land use planning, on the status, progress, and activities of the county's agricultural district program and to also coordinate the formation and maintenance of agricultural districts with the county's land use planning activities and the county's land use plan if one currently exists at the time this chapter is enacted or when one is formed.

(b) *Posting of notice.* The following notice, of a size and form suitable for posting, shall be posted in the office of the register of deeds, and any other office or agency the advisory board deems necessary:

Cabarrus County has established agricultural districts to protect and preserve agricultural lands and activities. These districts have been developed and mapped by the county to inform all purchasers of real property that certain agricultural and forestry activities, including but not limited to pesticide spraying, manure spreading, machinery and truck operation, livestock operations, sawing, and other common farming activities may occur in these districts any time during the day or night. Maps and information on the location and establishment of these districts can be obtained from the

North Carolina Cooperative Extension Service office, the office of the register of deeds, the county planning office, or the natural resources conservation service office.

(c) *Growth corridors.* At such time as the county might establish designated growth corridors, agricultural districts will not be permitted in the designated growth corridors, as delineated on the official county planning map without the approval of the board of commissioners. Districts located in growth corridors designated after the effective date of this program may remain, but shall not be expanded within the growth corridor area without the approval of the board of commissioners.

(Ord. No. 2005-20, Art. XIV, 11-21-05)

Sec. 32-71. Consultation authority.

The advisory board may consult with the North Carolina Cooperative Extension Service, the natural resources conservation service office, the North Carolina Department of Agriculture and Consumer Services, and with any other individual, agency, or organization the advisory board deems necessary to properly conduct its business.
(Ord. No. 2005-20, Art. XV, 11-21-05)

Sec. 32-72. North Carolina Agency notification.

Annually report to the North Carolina Department of Agriculture and Consumer Services.

A copy of this chapter shall be sent to the office of the North Carolina Commissioner of Agriculture and Consumer Services, the board of commissioners, the county office of the North Carolina Cooperative Extension Service, and the soil and water conservation district office after adoption. At least annually the county shall submit a written report to the commissioner of agriculture and consumer services on the county's agricultural district program, including the following information:

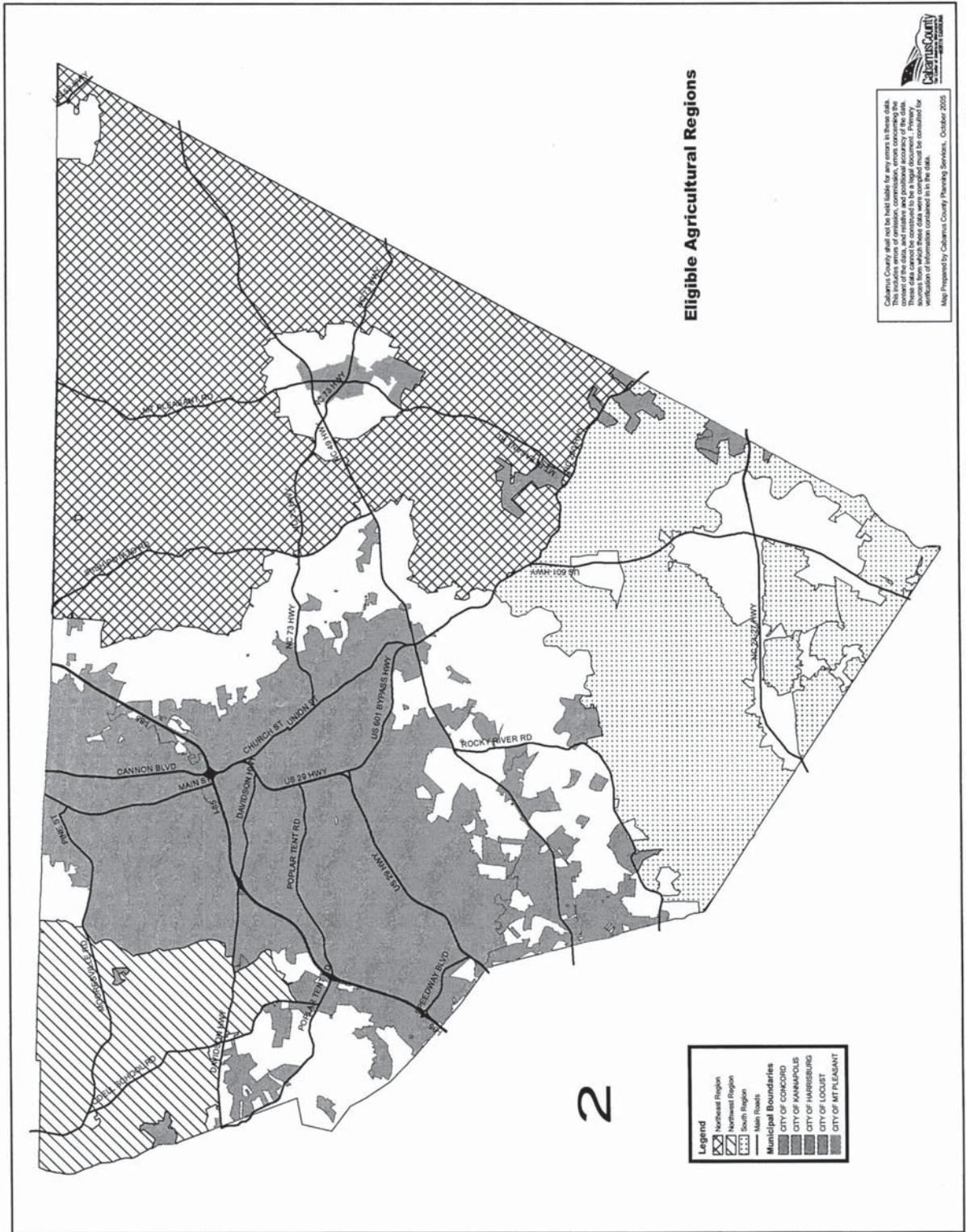
- (1) Number of landowners enrolled;
- (2) Number of acres enrolled;
- (3) Number of acres certified during the reporting period;

- (4) Number of acres denied during the reporting period;
 - (5) Number of acres for which applications are pending;
 - (6) Copies of any amendments to the ordinance; and
 - (7) Any other information the advisory board deems useful.
- (Ord. No. 2005-20, Art. XVI, 11-21-05)

Sec. 32-73. Conflict with other ordinances and statutes.

Whenever the provisions of this chapter conflict with other ordinances of the county, this ordinance shall govern. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this chapter, the provisions of such statute shall govern.

(Ord. No. 2005-20, Art. XVII(B), 11-21-05)



map

Chapter 33

RESERVED

Chapter 34

FIRE PREVENTION AND PROTECTION*

Article I. In General

Secs. 34-1—34-25. Reserved.

Article II. Financial Assistance to Fire Departments

- Sec. 34-26. Offered to qualified departments.
- Sec. 34-27. Participating departments to file budgets with Cabarrus County Fire Marshal's Office.
- Sec. 34-28. Inspections of participating fire departments by the Cabarrus County Fire Marshal.
- Sec. 34-29. Notice of deficiency; time period for corrections.
- Sec. 34-30. Minimum standards for qualification.
- Sec. 34-31. Duties of fire marshal.
- Sec. 34-32. Fireworks
- Secs. 34-33—34-50. Reserved.

Article III. Fire Prevention Code

- Sec. 34-51. Adoption.
- Sec. 34-52. Penalties.
- Sec. 34-53. Enforcement and duties.
- Sec. 34-54. Periodic inspections.
- Sec. 34-55. Issuance of notice of violation by fire inspectors.
- Sec. 34-56. Permits.
- Sec. 34-57. Permit fees.
- Sec. 34-58. Administrative procedures.
- Sec. 34-59. Open burning regulations.

***Editor's note**—Ord. No. 2020-50, adopted Dec. 21, 2020, amended Ch. 34 in its entirety to read as herein set out. Former Ch. 34, §§ 34-1—34-5, 34-26—34-32, 34-51—34-59, pertained to similar subject matter, and derived from Ord. No. 2002-03, 8-19-02; Ord. No. 2005-19, 10-17-05; Ord. No. 2010-04, 5-17-10; Ord. No. 2011-03, 2-21-11; Ord. No. 2011-33, 9-19-2011; Ord. No. 2013-13, 6-17-13; Ord. of 12-2-85, §§ 1—6; Ord. of 4-3-86, §§ 1—6; Ord. of 4-7-86, §§ 1—6; Ord. of 6-17-96; Ord. of 8-16-93, §§ 1—8.

Cross references—Buildings and building regulations, ch. 14; manufactured homes and trailers, ch. 42.

State law reference—Fire protection in counties, G.S. 153A-233 et seq.

ARTICLE I. IN GENERAL

Secs. 34-1—34-25. Reserved.

ARTICLE II. FINANCIAL ASSISTANCE TO FIRE DEPARTMENTS

Sec. 34-26. Offered to qualified departments.

The county will offer financial assistance for the maintenance and operation of any volunteer fire department of a fire district qualifying for financial assistance under the terms of this article in an amount determined by the county manager, consistent with the policies of the Cabarrus County Board of Commissioners, not to exceed \$3,000.00 per year, and by revenue collected from the fire district tax, provided a tax district has been established in accordance with G.S. 69-25.1 et seq. for the area served, and by revenues generated by sales tax when the county selects ad valorem sales tax calculation. (Ord. No. 2020-50, 12-21-20)

Sec. 34-27. Participating departments to file budgets with Cabarrus County Fire Marshal's Office.

A volunteer fire department desiring financial assistance under this article shall file a budget with the Cabarrus County Fire Marshal's Office by April 15 each year for the following fiscal year. Budgets will be submitted on forms provided by the fire marshal's office. (Ord. No. 2020-50, 12-21-20)

Sec. 34-28. Inspections of participating fire departments by the Cabarrus County Fire Marshal.

The Cabarrus County Fire Marshal shall make regular inspections of each fire department receiving payments under this article. At least one inspection shall be made annually, but the fire marshal may make other such inspections as deemed necessary. During the course of such inspections, the fire marshal shall determine whether the department is continuing to meet

the minimum standards as specified in this article, and the findings reported to the Cabarrus County Board of Commissioners. (Ord. No. 2020-50, 12-21-20)

Sec. 34-29. Notice of deficiency; time period for corrections.

If during any inspection the fire marshal determines that the fire department is not meeting the minimum standards as set forth in this article, a notice of deficiency must be given in writing by the fire marshal to the fire chief and at least two officers of the corporation of the fire department. This notice shall specify the period of time within which the deficiencies must be corrected, provided that the length of the period of time shall be reasonable and in any event shall not be less than 15 days. At the end of the specified period, an inspection shall be made by the fire marshal to determine if the deficiencies have been corrected. If the deficiencies have not been corrected, the fire marshal shall notify the Cabarrus County Board of Commissioners with a recommendation to contract with another department to provide service until deficiencies have been corrected. (Ord. No. 2020-50, 12-21-20)

Sec. 34-30. Minimum standards for qualification.

Each fire department desiring to qualify for the financial assistance provided for under this article shall meet the following minimum standards:

- (1) The fire department shall be incorporated as a nonprofit corporation under state law. A copy of the department's charter and current by-laws shall be on file in the fire marshal's office.
- (2) Elections of at least a portion of the board of directors for the incorporated fire department shall be held at least every year by the voting membership of the corporation. The voting membership must include either residents of the fire tax district which have registered with the Cabarrus County Board of Elections

and are eligible to vote in a general election, or all resident property owners of the district.

- (3) No absentee or proxy votes will be allowed, nor shall such election be conducted by mail.
- (4) Notice of an annual meeting to elect officers shall be given by notice in local newspapers and as prescribed in the department's by-laws, or be a fire department lawfully established by a city, town or sanitary district and operate under the laws and provisions governing such departments.
- (5) Each fire department shall have a fire chief, an assistant chief, other necessary officers and personnel with a minimum of 19 firefighters who are eligible firemen, in accordance with G.S. 118-38. A list of all members, their addresses, their telephone numbers, and social security numbers must be given to the Cabarrus County Fire Marshal's Office on or before July 1 of each year and within ten days of the addition of new members.
- (6) All active members of a fire department in good standing shall have a county issued ID card, and a department issued car plate to identify them as a bona fide firefighter. No one other than an active or retired member in good standing shall be allowed to have this identification in his possession. The department issued car plate will be visible from the front of any vehicle running emergency warning devices as defined by N.C. General Statutes.
- (7) Each fire department shall maintain a class 9 or better rating with the insurance services office and shall have and maintain equipment as required by the state department of insurance for initial certification. These are minimum requirements; therefore, efforts should be made toward improving fire protection through equipment purchases and water supply development. All equipment specified shall be kept in good condition and operative at all times. Primary pumpers shall be subjected to an annual service test, as prescribed by the ISO, and records of the test shall be filed with the Cabarrus County Fire Marshal's Office.
- (8) Each department shall carry liability insurance on its personnel and equipment in the indemnity amount of at least \$1,000,000.00, and further holding the county harmless from any responsibility for damages, claims, or expenses resulting from the activities of its firefighters or from the operation of its equipment. Each fire department shall also carry worker's compensation insurance on its active members in order to provide those members with the benefits of the worker's compensation act. A certificate of insurance for each department shall be on file at the fire marshal's office.
- (9) The fire department shall carry out an organized training program which shall provide a minimum of 36 hours per year training. The training program shall include the training and qualifying of apparatus drivers. Written records shall be kept on all drills and include subject taught, instructor, hours, and members attending.
- (10) The fire chief for each department is responsible for stressing safety throughout the department and all phases of the department activities. Emphasis shall be placed on safe driving of department owned apparatus and the firefighter's personal automobile to emergencies, as well as on safe practices while fighting a fire. Only qualified drivers shall drive the fire apparatus. Drivers shall operate apparatus with caution at all times and allow no one but active firefighters to ride the apparatus when it is on call to a fire or other emergency.
- (11) The senior fire officer within whose area a fire emergency occurs is the authority on the fire scene or when a fire occurs outside a recognized fire district the senior fire officer of the first arriving depart-

ment shall be the authority, unless incident falls under jurisdiction of other agency as granted by N.C.G.S.

- (12) The senior fire officer responsible for the fire emergency shall make a full investigation of each fire to determine, if possible, the cause of the fire. A report of the findings of this investigation shall be forwarded to the fire marshal within 30 days of the fire on forms designed by the National Fire Reporting System. If evidence shows the fire may be incendiary or if persons are injured or a fatality occurs, the fire marshal and other necessary state and local officials shall be notified immediately.
- (13) The department shall furnish to the Cabarrus County Board of Commissioners an independent audit of receipts and disbursements for the fiscal year conducted by an accountant certified by the state. This audit, including a financial statement for the previous fiscal year and an auditor's opinion, shall be submitted to the fire marshal's office by December 31 of each year for previous fiscal year.
- (14) The fire chief shall be responsible for filing all reports required by local, state and federal agencies.
- (15) Each department involved with the medical first responders program shall provide basic life support to sick and injured persons and shall work under the guidelines set forth by the first responder ordinance.
- (16) Each department shall provide a means of notifying members of a fire call.
- (17) Departmental operational policies will be in accordance with all local, state and federal standards. Policies adopted by two-thirds majority of the Cabarrus County Fire Service Board (CCFSB), and approved by the Cabarrus County Fire Marshal's Office will be considered county-wide policy and will be followed by all contracted fire departments. Failure to

follow policies by departments will be considered deficiencies under section 34-29 of this chapter.

- (18) The fire marshal will maintain a current manual on all approved policies, and provide a copy to all contracted fire services. The fire marshal is responsible for updating each department issued manual. The copy maintained on file in the fire marshal's office will be considered the official manual.
- (19) Approved policies will be reviewed annually by the fire marshal, changes or deletions will be brought before the CCFSB. The fire marshal can change or delete policies based upon changes in state or federal requirements without approval of the CCFSB. All agencies will be notified at least 60 days prior to any effective changes.

(Ord. No. 2020-50, 12-21-20)

Sec. 34-31. Duties of fire marshal.

The duties of the Cabarrus County Fire Marshal are:

- (1) Act as a liaison between the fire departments and the county manager and the Cabarrus County Board of Commissioners and shall keep them informed on matters involving fire departments, fire districts, and tax districts.
- (2) Aid in planning, organizing and developing new departments, facilities and districts.
- (3) Be an advisor to the county manager and the Cabarrus County Board of Commissioners concerning insurance ratings of fire districts.
- (4) Assist in developing a comprehensive training program for all county fire departments.
- (5) Advise fire departments on equipment purchases, maintenance, and repair.
- (6) Make yearly inspections of all departments to see that they conform to

minimum standards on insurance services offices, class 9 rating and the requirements of the county fire ordinance.

- (7) Make fire prevention inspections of schools, as required by G.S. ch. 115; day care facilities, as authorized by G.S. ch. 110; inspections required by the department of social services.
- (8) Administer the county fire prevention code and make inspections relevant to enforcement of the code.
- (9) Make investigations, along with other officials, of fires, as required by G.S. 58-79-1.
- (10) Assist fire departments in developing fire prevention and pre-fire planning programs within their respective districts.
- (11) Assist school authorities, businesses, and other citizens in developing fire prevention and life safety education programs for their respective facilities.
- (12) Maintain reporting system for the collection and use of data concerning fires.
- (13) Coordinate the use of the communications system by the fire departments to ensure prompt notification and response to all fire calls.
- (14) Respond to major fires to assist the officer in charge in coordinating the activities of fire departments at that call.

(Ord. No. 2020-50, 12-21-20)

Sec. 34-32. Fireworks

In addition to the rules and regulations stated in Chapter 33 of the North Carolina State Fire Prevention Code, which is adopted by reference in this chapter, the board of county commissioners adopts the following provisions:

- (1) The county fire marshal is here by authorized by the board of commissioners pursuant to G.S. 14-413, to issue permits for use of pyrotechnics (fireworks) within the county. The county board of commissioners also delegates the authority to the governing bodies of the City of Kannapolis, City of Concord, and Town of

Harrisburg in Cabarrus County to approve public exhibitions of pyrotechnics to be exhibited, used, or discharged within the corporate limits of each respective jurisdiction listed, pursuant to the provisions of G.S. 14-413(a1). The fire code official of the local jurisdiction must hold a fire level III certification, inspect the display site, and ensure the display can be performed in full compliance with the North Carolina State Fire code, NFPA standards and issue appropriate permit(s) where applicable. The Cabarrus County Fire Marshal Office will issue permits for all other municipal jurisdictions within Cabarrus County and the un-incorporated areas of the county.

- (2) No person shall engage in the use of pyrotechnics for public display without first completing an application and obtaining approval from the fire marshal's office ten days in advance of such use. The names and addresses of all operators and assistants must appear on the application and a copy of the license issued by the office of state fire marshal for each operator and assistant must be provided with the application.
- (3) The county fire marshal shall issue a permit only after all requirements of this chapter and the state fire code have been met, the appropriate fees paid, and the applicant has posted a bond or certificate of insurance. The bond or certificate of insurance shall be in the amount of at least \$500,000.00 to cover damages to real or personal property and an additional \$500,000.00 to cover damages for personal injuries.

(Ord. No. 2020-50, 12-21-20)

Secs. 34-33—34-50. Reserved.

ARTICLE III. FIRE PREVENTION CODE

Sec. 34-51. Adoption.

- (a) Except as hereinafter amended, the provisions of the North Carolina Fire Prevention Code with all included appendixes, (hereafter referred

to as the N.C. Fire Code) current edition, adopted by the North Carolina Building Code Council is hereby adopted and made applicable as the Fire Prevention Code of Cabarrus County. The specific provisions of the aforesaid state building code herein referred to as the fire prevention code are hereby incorporated into this section as fully as if set out herein verbatim.

(b) The listed standards and publications which comprise a part of the fire prevention code, as the same may be periodically revised and updated, shall be applicable and enforced within the county.

(c) Amendments' to the North Carolina Fire Prevention Code, which are adopted and published by the North Carolina state Building Code Council, shall be effective on the date prescribed by the North Carolina State Building Code Council.

(d) The North Carolina State Building Code volume that is titled Administration & Enforcement Requirements is hereby referenced for the administration of the North Carolina Fire Prevention Code, current edition for periodic inspection of building altered, repaired or rehabilitated in accordance with the existing building code. (Ord. No. 2020-50, 12-21-20)

Sec. 34-52. Penalties.

(a) Any person who violates or fails to comply with any provision of the N.C. Fire Code, as adopted, amended, or augmented, or who shall violate or fail to comply with any order made in connection with the fire prevention code, or who shall build in violation of any specifications or plans submitted under the N.C. Fire Code, or any certificate or permit issued there under, shall be guilty of a misdemeanor and punished in accordance with section 1-7.

(b) The imposition of a penalty for any violation shall not excuse the violation or permit it to continue and all such violations shall be corrected within the time specified.

(c) Violations of this code shall constitute either a misdemeanor or, at the election of the county, shall subject the offender to a civil penalty upon the issuance of a citation for the violations.

(d) In addition to the civil penalties, any provision of the code that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order abatement by the general court of justice. When a violation of such provision occurs, the county may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and/or order of abatement commanding the defendant to correct the unlawful condition or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings including the rules of civil procedure.

(e) An order of abatement may direct that the buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from any building on the property; that abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the N.C. Fire Code. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the county may execute the order of abatement. The county shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material-man's lien. The defendant may secure cancellation of an order of abatement by paying all cost of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties to the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by judicial order. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(Ord. No. 2020-50, 12-21-20)

Sec. 34-53. Enforcement and duties.

(a) N.C. Fire Code, shall be enforced by the Cabarrus County Emergency Management Department or by such other organization

designated to undertake such activities or by contract executed and entered into with other appropriate fire prevention organizations.

(b) Fire inspectors will be appointed as required to enforce the Code and to perform required inspections. The fire inspectors will report to their supervisors in their respective departments. Assignment of specific areas of responsibility shall be made by the county manager. (Ord. No. 2020-50, 12-21-20)

Sec. 34-54. Periodic inspections.

(a) Subject to the limitations and condition stated in the N.C. Fire Code, it shall be the duty of the fire inspectors to inspect all buildings, structures, and premises within this jurisdiction for the purposes of ascertaining and causing to be corrected any condition which may cause a fire or an explosion or endanger life from fire or explosion. The inspector shall determine any violations of the provisions of the code or any other ordinances pertaining to fire or explosion hazards. These inspections and determinations will be done in accordance with the periodic inspection schedule for occupancies as approved by the state building code council or upon complaint by interested parties or if there is probable cause for such inspections.

(b) Fire inspections shall be conducted in accordance with the following schedule or more frequently:

- (1) *Group 1.* Annual inspections shall be conducted in the following hospitals, nursing homes, chemical plants, movie theaters, auditoriums, high rise buildings, businesses storing hazardous materials, gymnasiums, restaurants, stadiums with capacities of 100 or more persons and interior common areas of multi-occupant residential structures.
- (2) *Group 2.* Biennial inspections shall be conducted in industries and educational buildings other than public schools.
- (3) *Group 3.* Triennial inspections shall be conducted at all other businesses.

Example: offices, banks, barber shops, bowling alleys, florists, retail stores, churches and synagogues.

- (4) *Group 4.* Public schools shall be inspected at least two times per year. (Ord. No. 2020-50, 12-21-20)

State law reference—Investigation of fires and inspection of premises, G.S. 58-79-1 et seq.

Sec. 34-55. Issuance of notice of violation by fire inspectors.

(a) Fire inspectors are empowered to issue notices of violation when such fire inspectors have reasonable cause to believe that any person has violated any provision of the N.C. Fire Code.

(b) The service of orders or notices for the correction of violations of the code shall be made upon the owner, occupant or other person responsible for the conditions, either by personally delivering a copy of same to such person or by delivering the same to and leaving it with any person in charge of the premises or by sending a copy of the order or notices by certified or registered mail to the owner's last known address.

(c) When buildings or their premises are occupied by one other than the owner under a lease or agreement, the orders or notices issued to correct violations of the code shall apply to the occupant thereof; provided that where the order or notices require the making of additions to or changes in the premises themselves which may become part of the real property of the owner, then in such cases, the orders or notices shall also be issued to the owner of the premises or real property. Failure to deliver an order or notice to the owner, if other than the occupant, shall not invalidate such order or notices.

(d) The notice of violation shall specify the penalty to be imposed on the violator and shall direct the violator to submit the penalty payment to the emergency management department within 15 business days to pay the penalty. The penalty imposed shall be adopted by the Cabarrus County Board of Commissioners by resolution and posted in the fee schedule by the Cabarrus County Fire Marshal.

(e) The notice of violation may specify a period during which the violator must correct the violation. If the violation is not corrected within the specified time, the violator shall be guilty of a new and separate offense.

(f) If the violator does not pay the penalty within the 15 business days after the issuance of the notice of violation, a delinquency charge as listed in the adopted fee schedule, shall be added to the amount specified in the notice of violation and notice of the delinquency charge shall be mailed to the violator. The delinquency notice shall also inform the violator that a criminal summons will be issued against him if the specified penalty and the delinquency charge are not paid within five business days after the date of the delinquency notice.

(g) If the penalty and delinquency charges are not paid within the time allowed, the Cabarrus County Emergency Management Department may have a criminal summons issued against the violator of the N.C. Fire Code. Upon conviction, the violator shall be subject, in addition to any criminal penalty the court may impose pursuant to the provisions contained in the state building code, to the penalty specified in the notice of violation and the delinquency charge.

(Ord. No. 2020-50, 12-21-20)

Sec. 34-56. Permits.

(a) It shall be the duty of the fire inspectors to evaluate applications and issue, if approved, all permits as prescribed in N.C. Fire Code.

(b) No person shall maintain, store or handle materials or conduct processes which produce conditions hazardous to life or property or install equipment used in connection with such activities without a permit as required by the N.C. Fire Code. Before a permit may be issued, the Cabarrus County Fire Marshal or his/her representative shall inspect and approve the receptacles, vehicles, buildings, structures, storage areas, devices, processes or conditions related to the permit. A violation of this subsection is punishable as a misdemeanor.

(c) Applications for permits required pursuant to N.C. Fire Code shall be made to the fire inspectors on forms provided by the county. All applications shall be accompanied by the applicable permit fee as established by the county. The required permit fee shall be in a fee schedule. Printed schedules of the permit fees shall be available to the public at the emergency management department, and shall be on file at the county clerk's office

(d) The fire inspector is authorized to waive the permit fee for governmental, religious or charitable organizations.

(Ord. No. 2020-50, 12-21-20; Ord. No. 2021-32, § 8, 12-20-21)

Sec. 34-57. Permit fees.

The schedule of fire prevention permit fees is not printed in this article but is on file and available in the county offices.

(Ord. No. 2020-50, 12-21-20)

Sec. 34-58. Administrative procedures.

(a) *Fire code violations.* Fire code violations shall be handled as follows:

- (1) If an inspector writes a citation (two part form), the yellow copy is given to the violator and the white copy is filed with the emergency management department.
- (2) The violator will make payment to the county emergency management department. The emergency management department will process the payment and forward the collected fees to the Cabarrus County Finance Department.
- (4) The emergency management department will match the copy of the citation sent to the finance department with the copy on file. If a payment is delinquent, the Cabarrus County Fire Marshal will be notified for code enforcement.
- (5) The fire official pursues payment, assigns late fees, issues additional citations, or initiates prosecution.

(b) *Permits.* Permit requests shall be handled as follows:

- (1) The department receives permit requests and permit payments.
- (2) Application and payment are reviewed to insure that the application is complete and correct payment has been received.
- (3) A ledger entry will contain date, type of permit, address of applicant, check number and amount of check.
- (4) The permit application is processed by the permit type, any violations are reviewed, and the date of last inspection noted.
- (5) The permit is signed by the fire official for issue.
- (6) The permit is issued and a copy filed.
(Ord. No. 2020-50, 12-21-20)

Sec. 34-59. Open burning regulations.

(a) Open burning within 100 feet of a structure will be regulated by the Cabarrus County Fire Marshal's Office.

- (1) Open burning must meet all provisions of the N.C. Fire Code and North Carolina Administrative Code Title 15A, Chapter 2, Subchapter 2D, 1900, Control and Prohibition of Open Burning, prior to the issuance of any permit. "No burning or refuse that is in violation of any state or local Air Quality Open Burning Regulations will be allowed."
- (2) Debris burning falling under the jurisdiction of the North Carolina Department of Natural Resources shall meet their required permit conditions. All requirements of the N.C. Fire Code shall be met along with any other state laws.

(b) Burning site requirements:

- (1) The location of the material to be burned shall be a minimum of 50 feet from any structure. If a possible hazard exists, the fire official may require this distance to be increased.

- (2) Piles of material to be burned should be done in a safe manner. This would also include bonfires for different events. Bonfires used for ceremonial and religious purposes (schools, civic groups, churches) may take place when all regulations are met. Materials used for bonfires must also comply with the air quality regulations.
- (3) Only natural materials, such as limbs, brush, grass, leaves, or wood may be burned.
- (4) A competent person shall constantly attend the fire until such fire is extinguished.
- (5) A garden hose with suitable water supply or other fire extinguishing equipment, as deemed acceptable by the fire official, shall be readily available for immediate use during the course of the fire until such fire is extinguished.

(c) Permits:

- (1) A permit from the Cabarrus County Fire Marshal is required for bonfires and certain land clearing and may include the following:
 - a. A site inspection may be required before burning is to be done.
 - b. The applicant shall verify all information and shall read all the rules and regulations on the permit. The applicant will then be required to sign the permit acknowledging responsibility to obey these regulations.
 - c. It will be the responsibility of the applicant to keep this permit available at the burn site at all times.
- (2) A permit is required to conduct any live fire training exercises for fire department personnel. All applicable N.C. state permits and notifications must be obtained by the instructor prior to conducting the training. A complete copy of all paperwork required to conduct a live burn exercise

must be on file with the Cabarrus County Fire Marshal's Office before a permit will be issued for the exercise.

- (d) Nuisance burning:
- (1) If any time during the burning, the smoke and/or odors create a nuisance by causing physical irritation exacerbating a documented medical condition, visibility impairment or causes a hazard determined by the fire official, the fire official may order the fire to be extinguished. Open burning/nuisance burning is enforceable by the Cabarrus County Fire Marshal Office within 100 feet of structures.
 - (2) If at any time during the burning, the regulations regarding open burning are not met or are neglected in any way, the fire shall be extinguished
 - (3) All open burning which includes, but is not limited to brush, limbs, leaves, farm lands, fields and clearing of land shall stop in the event of a burning ban issued by the North Carolina Forest Service or the Cabarrus County Fire Marshal Office.
 - (4) Willful neglect and/or willful violations of the N.C. Fire Code shall be subject to a civil citation.
- (e) Burning ban:
- (1) In the event that the Cabarrus County Fire Marshal's Office issues a ban on outdoor burning within 100 feet of a structure, then all local open burning permits issued shall be deemed invalid with no issuance of any new permits until such ban is lifted by the Cabarrus County Fire Marshal's Office. During this ban, no open burning shall be conducted at all within 100 feet of a structure; this includes any outdoor burning at residences. A civil citation will be issued for violations.
 - (2) A burning ban on outdoor burning within 100 feet of a structure may be issued by the Cabarrus County Fire Marshal's Office in the event that atmospheric conditions or local circumstance make such fire hazardous.
- (3) Local conditions that may warrant a burning ban include, but are not limited to:
- a. Flammable and/or combustible liquid spills or leaks close to a burning site.
 - b. A hazardous materials incident where the proximity of the burn site could cause a possible ignition source or prove hazardous to operations controlling the incident.
 - c. The proximity of adjacent structures or other such hazards.
- (4) In the event a burning ban is issued all permit holders shall be notified through the news media that the permit is invalid and fires shall be extinguished immediately. In conjunction with North Carolina Forest Service burning ban the Cabarrus County Fire Marshal's Office shall issue a burning ban of all-open burning within 100 feet of a structure and all fires shall be extinguished immediately. The local press shall be notified by the fire marshal's office that such ban is in effect and that no permits will be issued until such ban is lifted and no open burning will be allowed.
- (5) Any burning ban issued by the fire marshal's office shall be repealed in the same manner.
- (f) Extinguishing illegal fires, nuisance burning, and fires when burning bans are in effect or all other fires that fall under this chapter, the N.C. Fire Code and the state regulations.
- (1) The responding fire department has the authority to extinguish any fire that does not meet this chapter, the N.C. Fire Code and state regulations which includes but are not limited to illegal fires, nuisance burning and fires when burning bans are in effect.

- (2) The fire marshal's office or its authorized representative has the authority to extinguish any fire that does not meet this chapter, the N.C. Fire Code and state regulations which includes, but are not limited to illegal fires and nuisance burning and fires when burning bans are in effect.
- (3) The fire marshal's office or its authorized representative does not have to be present to order the extinguishment of the fire. If the owner or person burning refuses to let the fire department extinguish the fire then the fire department can have the fire marshal's office paged and a representative from that office will respond to assist the fire department.
- (4) The fire marshal's office may respond to any nuisance burning when the person will not allow the fire department to extinguish the fire.
- (5) The fire marshal or a representative of that office may respond to any illegal burning when requested. The fire marshal or a representative of that office does not need to be present to order the fire extinguished. The fire department can extinguish the fire and fax any information about the fire to the fire marshal's office and they will investigate. If there is a problem with the person who is burning, the fire marshal or a representative of that office will respond to assist the fire department.
- (6) If any citations are to be issued that fall under this chapter or N.C. Fire Code it will be issued by the fire marshal's office.

(g) A violation of this section is punishable as a misdemeanor.

(Ord. No. 2020-50, 12-21-20; Ord. No. 2021-32, § 8, 12-20-21)

Chapters 35–37

RESERVED

Chapter 38

RESERVED*

***Editor's note**—Ord. No. 2016-42, adopted Oct. 17, 2016, repealed the former Ch. 38, §§ 38-26—38-38, 38-56—38-60, 38-76—38-79, 38-81, 38-91, 38-92, which pertained to floods and derived from Ord. No. 2008-15, adopted December 15, 2008.

Chapters 39–41

RESERVED

Chapter 42

RESERVED*

***Editor's note**—Ord. No. 2005-16, adopted June 20, 2005, deleted Ch. 42 in its entirety. Former Ch. 42 pertained to manufactured homes and trailers. For a complete history of former Ch. 42 see the Code Comparative Table.

Chapters 43–45

RESERVED

Chapter 46

OFFENSES AND MISCELLANEOUS PROVISIONS*

- Sec. 46-1. Finding of fact; unauthorized presence in county facilities and the surrounding premises prohibited; penalty.
- Sec. 46-2. Discharge of firearms.
- Sec. 46-3. Operation of vehicles on raceways or drag-strips; penalty.
- Sec. 46-4. Possession of weapons on county property: Exceptions.

***State law reference**—State criminal code, G.S. ch. 14.

Sec. 46-1. Finding of fact; unauthorized presence in county facilities and the surrounding premises prohibited; penalty.

(a) County facilities, including the county courthouse building, have been constructed and such buildings and the surrounding premises are maintained for the use of the general public in transacting business with the offices, agencies, departments or courts that are housed in the facilities.

(b) It is in the best interest of the public that the buildings and the surrounding premises not be a gathering place or center for persons who do not have any business or are not present to transact any business with any of the offices, agencies, departments or courts located in the buildings. Therefore:

- (1) No person shall be or remain inside any county facilities, including the courthouse, or on the surrounding premises owned by the county to include the adjacent walkways, yards and parking lot, unless he is present for the conduct or transaction of business with any of the offices, agencies, departments or courts located in such facilities, is present as a spectator in the public section of any courtroom, or is present as a spectator at any public meeting of the board of commissioners or other county agency or any other public meeting authorized to be held in a county facility, including the courthouse.
- (2) Any person who is not authorized to be inside any county facility or on the surrounding premises as set out in subsection (1) of this section and who remains on such premises after having been instructed by a county employee or law enforcement officer to leave the premises, shall be guilty of a misdemeanor and, upon conviction, may be punished in accordance with section 1-7.

(c) The use of skates, skateboards, etc., is prohibited in or about county facilities and surrounding premises unless expressly permitted

by formal authority of the board of county commissioners or county manager. A violation of this subsection is punishable as a misdemeanor. (Ord. of 2-9-78, §§ 1, 2; Ord. No. 2021-32, § 9, 12-20-21)

State law reference—Use of county property, G.S. 153A-169 et seq.

Sec. 46-2. Discharge of firearms.

(a) *Definitions.* In this section:

(1) *"Covered structure"* means:

- a. An occupied structure; or
- b. A residence, business, house of worship, educational facility, park facility, or any other public gathering facility, regardless of whether these structures are occupied.

(2) *"Firearm"* means a device designed or used to expel a projectile using an explosive charge as a propellant, such as a handgun, shotgun, rifle, or cannon.

(b) *In general.* No person may discharge a firearm:

- (1) Carelessly and heedlessly, so as to endanger any person or property;
- (2) While appreciably impaired by an impairing substance, such as alcohol or a Schedule I controlled substance listed in G.S. 90-89;
- (3) On, from, or across any public street, highway, or right-of-way;
- (4) On the property of another without having permission from a person who owns or otherwise controls such property at the time of the discharge;
- (5) In a manner causing the projectile to enter the property of another without having permission from a person who owns or otherwise controls such property at the time of the discharge; or
- (6) Within 300 feet of a covered structure located on a parcel other than the parcel from which the firearm was discharged,

which shall be measured from the point of discharge to the actual physical structure of a covered structure.

(c) *Exceptions.*

(1) *General exceptions.* Subsection (b) shall not apply to the discharge of a firearm:

- a. By a person in defense of person, animal, or property, including a person protecting a person, animal or property against any dangerous or destructive animal;
- b. By a person acting pursuant to lawful directions of law enforcement officers;
- c. By a person hunting birds or animals in compliance with Chapter 113, Subchapter IV of the North Carolina General Statutes; or
- d. By law enforcement officers or members of the armed forces acting in the line of duty, including for training purposes.

(2) *Distance exceptions.* Subsection (b)(6) shall not apply to the discharge of a firearm:

- a. At a shooting range or other training facility operated by a law enforcement agency; or
- b. By a person performing in an historical ceremony or commemorative function in which such discharge does not involve the release of projectiles.

(d) *Applicability.* This section shall apply in areas of the county not in the corporate limits of any municipality.

(e) *Conflict with other laws.* The section shall not be construed as altering any other provision of any other ordinance or law, such as the Cabarrus County Development Ordinance, Article II, Chapter 30 of the Code of Ordinances (governing noise), or state firearms laws.

(f) *Enforcement.* A violation of this section is punishable as a misdemeanor.

(Ord. of 7-3-67, §§ 1—4; Ord. No. 2021-17, 6-21-21; Ord. No. 2021-34, 12-20-21)

Cross references—Possession, transportation and transfer of dangerous weapons during state of emergency, § 22-58; carrying concealed weapons, § 46-4; firearms in parks prohibited, § 50-4.

Special acts reference—Centerfire rifles, pt. I, art. VII.

State law references—Authority to regulate, restrict or prohibit the discharge of firearms, G.S. 153A-129; authority to regulate the use of pellet guns, G.S. 153A-130.

Sec. 46-3. Operation of vehicles on raceways or drag-strips; penalty.

(a) It shall be unlawful for any person to operate or allow to be operated a motor vehicle on any raceway, racetrack, or drag-strip in the county after the hour of 12:00 midnight, whether or not the vehicle is engaged in speed competition with any other vehicles. It shall further be unlawful for any person to run or allow to be run the motor of any vehicle designed to engage in racing or speed competition after the hour of 12:00 midnight at any raceway, race track or drag-strip in the county.

(b) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and punished in accordance with section 1-7.

(Ord. of 7-7-69)

Cross references—Amusements and entertainments, ch. 6; traffic and vehicles, ch. 74; race complexes, Cabarrus County Zoning Ordinance, § 8-4(14); racetracks, animal/mechanical, Cabarrus County Zoning Ordinance, § 8-4(15).

Sec. 46-4. Possession of weapons on county property: Exceptions.

(a) It is the express intent of this section to permit lawful possession of a concealed handgun on all county-owned or operated real property and buildings, except as prohibited by North Carolina law (N.C. Gen. Stat. § 14-415.23). This would specifically allow possession of a concealed handgun at the Cabarrus County libraries, the Cabarrus County Arena and Events Center (including during the Cabarrus County Fair) and the Cabarrus County Governmental Center.

(b) Possession of a concealed handgun is hereby prohibited at the Cabarrus County Courthouse (N.C. Gen. Stat. § 14-269.4), the Cabarrus County Sheriff's Administration and Detention Center (N.C. Gen. Stat. § 14-415.11(c)(5)), the Cabarrus County Animal Shelter (N.C. Gen. Stat. § 14-415.11(c)(5)) and Cabarrus County parks during school events (to the extent prohibited by N.C. Gen. Stat. § 14-269.2).

(c) Violation of this section is punishable as a misdemeanor and shall also be a violation of the applicable state statute which prohibits possession of a concealed handgun on county property.

(d) No provision of this section is intended to prohibit a person from storing a firearm within a motor vehicle while the vehicle is located on county property.

(Ord. of 12-18-95, §§ 1—4; Ord. No. 2008-04, 3-24-08; Ord. No. 2014-23, 9-15-14; Ord. No. 2021-32, § 9, 12-20-21)

Editor's note—An ordinance of Dec. 18, 1995, did not specifically amend the Code; hence, inclusion of §§ 1—4 of such ordinance as § 46-4 was at the discretion of the editor.

Cross references—Park preservation, § 50-3; firearms in parks, § 50-4; use of firearms, § 46-2.

Chapters 47–49

RESERVED

Chapter 50

ACTIVE LIVING AND PARKS*

Article I. In General

- Sec. 50-1. Construction of chapter.
- Sec. 50-2. Definitions.
- Sec. 50-3. Property and facility preservation.
- Sec. 50-4. Explosives; alcoholic beverages; drugs; dangerous substances.
- Sec. 50-5. Hunting and fishing.
- Sec. 50-6. Water activities.
- Sec. 50-7. Camping; fires; picnic areas.
- Sec. 50-8. Prohibit smoking and the use of other tobacco products on grounds of the county's parks system and in buildings located in the county's parks system.
- Sec. 50-9. Aviation.
- Sec. 50-10. Hours of operation.
- Sec. 50-11. Vehicles and parking.
- Sec. 50-12. Personal conduct.
- Sec. 50-13. Enforcement of chapter.
- Sec. 50-14. Violations and fines.
- Sec. 50-15. Other relief available.
- Secs. 50-16—50-30. Reserved.

Article II. Sex Offenders

- Sec. 50-31. Definitions.
- Sec. 50-32. Prohibition.
- Sec. 50-33. Limited exceptions.
- Sec. 50-34. Scope.
- Sec. 50-35. Enforcement.
- Sec. 50-36. Construction of article.
- Sec. 50-37. Penalty.
- Sec. 50-38. Severability.
- Sec. 50-39. Signage.

***Editor's note**—Ord. No. 2017-29, adopted May 15, 2017, changed the title of Ch. 50 from "Parks" to read as herein set out.

Cross reference—Amusements and entertainments, ch. 6.

State law reference—Authority to establish parks, G.S. 153A-444.

ARTICLE I. IN GENERAL**Sec. 50-1. Construction of chapter.**

In the interpretation of this and all succeeding parks ordinances, the provisions shall be construed as follows:

- (1) Any term in the singular shall include the plural.
- (2) Any term in the masculine shall include the feminine and neuter.
- (3) Any requirement or prohibitions of any act shall respectively extend to include the causing or procuring, directly or indirectly, of such act.
- (4) No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the county active living and parks department (the "department") or any other employee or agent of the county or the State of North Carolina (the "state") in line of duty or work, or by any person, his agent or employees, in the proper and necessary execution of the terms of any agreement with the department, the county or the state.
- (5) Any act otherwise prohibited by this active living and parks chapter or any local ordinance shall be permitted if performed within the confines of a properly issued written permit to do so, as set forth herein.
- (6) This chapter is in addition to and supplements the state vehicle and traffic laws, which are incorporated herein and made a part hereof, including without limitation, the requirement that all persons operating any motor vehicle as defined by state law must have a valid operators license to operate such vehicle within any county parks.

(Ord. of 6-17-91(2), § 1; Ord. No. 2003-02, § 1, 1-27-03; Ord. No. 2003-03, § 1, 2-17-03; Ord. No. 2017-29, 5-15-17)

Sec. 50-2. Definitions.

In the interpretation of this and succeeding department regulations or ordinances, the following terms unless otherwise defined therein, shall mean the following:

County building. A building owned, leased as lessor, or the area leased as lessee and occupied by the county.

Department means Cabarrus County Active Living and Parks Department composed of all county parks, senior centers and school parks.

Employee. A person who is employed by the County of Cabarrus, or who contracts with the county or a third person to perform services for the county, or who otherwise performs services for the county with or without compensation.

Grounds. An unenclosed area owned, leased, or occupied by the county.

Foot path or trail means any path or trail maintained for pedestrians.

Park or parks shall be deemed to include all aspects of any county park or school park.

Parks system. Any tract of land or body of water comprising part of the county's parks, playgrounds, natural areas, recreation areas, trails and greenways, and streams or other bodies of water.

Participant means any individual in a park or senior center either in a class or on a voluntary basis.

Pedestrian means a person on foot.

Permit means any written license issued by or under authority of the department, permitting the performance of a specified act or acts on park property.

Person means any natural person, corporation, company, association, joint stock association, joint venture, firm or partnership.

Smoking. The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

Tobacco product. Any product containing, made, or derived from tobacco that is intended for

human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part or accessory of a tobacco product, including, but not limited to, cigarettes; cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff; snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. A tobacco product excludes any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Trespassing consists of not only after hours entry into any of the facilities and grounds, but to any area closed inclusive in the facilities, as well as when someone is asked to leave the facility and will not.

Universal "No Smoking and Use of Tobacco Products Prohibited" symbol. A symbol consisting of a pictorial representation of a burning cigarette and a tobacco product enclosed in a red circle with a red bar across it.

Vehicle means any form of conveyance of any kind or nature (except baby carriages and non-motorized bicycles or tricycles) including without limitation, motor vehicles, trailers of all types, campers, sleds, sleighs, pushcarts, or modes of transportation propelled solely by means of human or animal muscular power, including without limitation, horse-drawn carriages.

(Ord. of 6-17-91(2), § 2; Ord. No. 2003-02, § 2, 1-27-03; Ord. No. 2003-03, § 2, 2-17-03; Ord. No. 2011-28, § 1, 6-20-11; Ord. No. 2017-29, 5-15-17)

Cross reference—Definitions generally, § 1-2.

Sec. 50-3. Property and facility preservation.

(a) It shall be unlawful for any person to:

- (1) Mark, deface, disfigure, injure, tamper with, displace or remove any real or personal park property, including without limitation, buildings, bridges, tables,

benches, fences, fireplaces, grills, railings, pavings or paving materials, water lines or any other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or any appurtenances whatsoever to any of the above. This includes parks and senior centers and all its appurtenances.

- (2) Fail to cooperate in maintaining all common areas, including without limitation, restrooms, activity rooms, fitness rooms, and washrooms, in a neat and sanitary condition.
- (3) Dig, pick or remove any soil, rock, sand, stones, trees, shrubs, plants, wood or other materials, or make any excavation by tool, equipment, blasting or any other means whatsoever.
- (4) Damage, cut, carve, mark or transplant any plant, or injure the bark of any plant or tree, or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas; or in any other way whatsoever injure the natural beauty or usefulness of any park area.
- (5) Construct or erect any building or structure of whatever kind or material, whether permanent or temporary, or run or string any public service utility into, upon, or across such park land, except with a special written permit issued hereunder.
- (6) Throw, discharge, or otherwise place or cause to be placed in any body of water, including without limitation, any fountain, pond, lake, stream or swimming pool within or adjacent to any park, or any tributary, stream, storm sewer, or drain flowing into such body of water; any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

- (7) Take into or carry through park/recreation facility any rubbish, refuse, garbage or other material, except as specifically authorized herein. Any rubbish generated in the park/recreation facility shall be placed in receptacles provided for rubbish disposal by the party responsible for its presence. Where receptacles are not available, all such rubbish or waste shall be carried away from the park/recreation facility by the person responsible for its presence and properly disposed of elsewhere.
- (8) Attach or place any sign, banner, wire, rope or cable, or any other contrivance of any kind or nature to any building, sign, tree or other facility properties by use of nails or staples. These items may be attached with tape or thumbtacks and must be removed before leaving the area. Language or symbols on any such sign or banner must not be deemed offensive to the general public, in the sole opinion of department and other county officials authorized to enforce this chapter. In no event will profanity be permitted.
- (9) Cause or permit any animal, whether or not under a person's custody or control, to enter the department facilities, with the exception of a dog restrained by a leash not exceeding six feet in length for any outdoor facility. Animals that are part of an authorized program are exempted from this policy. Any person having custody of any animal, as authorized herein shall be responsible for the removal of any animal solid waste.
- (10) Bring, use, ride, or drive a horse, pony, mule, cow or any other animal whatsoever in any part of the department facilities, except for commercially licensed horse drawn carriages pursuant to a county written permit, unless the animal is part of a department sponsored program or except as provided for directly above in subsection (9). Any mode of transportation propelled by an animal shall be treated as limousines for the purpose of this chapter.
- (11) Damage or alter any wildlife habitat or area within the facility unless undertaken by authorized department personnel or their agents as a bona fide wildlife management practice.
- (11) Damage or alter any wildlife habitat or area within the park unless undertaken by authorized park personnel or their agents as a bona fide wildlife management practice.
- (b) A violation of this section is punishable as a misdemeanor.
(Ord. of 6-17-91(2), § 3; Ord. of 6-19-95; Ord. No. 2003-02, § 3, 1-27-03; Ord. No. 2003-03, § 3, 2-17-03; Ord. No. 2017-29, 5-15-17; Ord. No. 2021-32, § 10, 12-20-21)
- Cross references**—Animals, ch. 10; carrying concealed weapons, § 46-4.

Sec. 50-4. Weapons; explosives; alcoholic beverages; drugs; dangerous substances.

(a) It shall be unlawful for any person to bring into or have in his possession any weapon (or any device that, in the reasonable opinion of county law enforcement authorities or department officials can be used as a weapon) including without limitation:

- (1) Any knife (other than reasonably used for picnic or camping purposes), rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow, arrow or any other device or item in which the propelling force is gunpowder, a spring or air, or which is propelled by muscular force, or any explosive of any kind or nature.
- (2) Any mind-altering substances, whether manmade or found in nature, including without limitation, any alcoholic beverage, narcotic drug, hallucinogen, or any controlled substance, without a valid physician's prescription. While in the facilities, persons should conduct themselves in a proper and orderly manner and shall not display, consume, or be under the influence of alcoholic beverages or any such mind-altering

substance without a valid physician's prescription, used as directed by the physician.

(3) Any fireworks or explosive of any kind or nature unless used as part of a program by authorized county employees or their agents.

(4) Handguns are prohibited except as governed by G.S. 14-415.23.

a. Except as provided in subsection d. below all persons are prohibited from possessing any firearm, including a handgun carried under the authority of a lawful concealed handgun permit, in county-owned buildings and their appurtenant premises, as defined herein.

b. Except as provided in subsection d. below all persons are prohibited from possessing any firearm, unless carried concealed under the authority of a lawful concealed handgun permit, in any county park/recreation facility. However the exception for concealed carry on a lawful concealed handgun permit does not apply to those locations identified in subsection c.

c. Except as provided in subsection d. below all persons are prohibited from possessing any firearm, including a concealed handgun carried under the authority of a lawful concealed handgun permit, at the following county facilities: swimming complex, athletic complex, and recreational facilities in accordance with G.S. 14-415.23:

The county properties listed herein have facilities in which a concealed handgun may not be carried:

1. Frank Liske Park - 4001 Stough Road, Concord, NC 28027
2. North Cabarrus Park - 760 Orphanage Road, Kannapolis, NC 28081

3. Camp T.N. Spencer Park - 3155 Rimer Road, Concord, NC 28025

4. Concord Senior Center - 331 Corban Avenue Southeast, Concord, NC 28025

5. Mt. Pleasant Senior Center - 8615 Park Drive, Mt. Pleasant, NC 28124

d. 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. Cabarrus County or City of Concord animal control officers;
6. Persons firing firearms without projectiles in organized educational, entertainment, instructional, or ceremonial events sponsored by Cabarrus County Active Living and Parks Department.

e. A conspicuous notice shall be posted at each entrance to any property set forth in a., b., or c. above outlining the restrictions prescribed in this section.

f. Any person in violation of this section shall be guilty of a misdemeanor and upon conviction shall be fined \$500.00 or imprisoned for six months or both.

g. Firearms and other weapons possessed in violation of this article are hereby declared to be contraband.

The sheriff or his designee shall dispose of such weapons pursuant to applicable state law.

(b) A violation of this section is punishable as a misdemeanor.

(Ord. of 6-17-91(2), § 4; Ord. No. 2003-02, § 4, 1-27-03; Ord. No. 2003-03, § 4, 2-17-03; Ord. No. 2014-24, 9-15-14; Ord. No. 2017-29, 5-15-17; Ord. No. 2021-32, § 10, 12-20-21)

Cross references—Possession, consumption or transfer of alcoholic beverages during state of emergency, § 22-57; use of firearms generally, § 46-2; carrying concealed weapons, § 46-4.

Sec. 50-5. Hunting and fishing.

(a) It shall be unlawful for any person in the park areas to:

- (1) Hunt, trap, shoot, kill, wound, molest, capture, chase, willfully frighten, or attempt to harm any wildlife within the park, except as undertaken by authorized park personnel in their exercise of a bona fide wildlife management practice.
- (2) Fish without a valid state fishing license and any required local permits, except as provided for in the state fishing regulations. All patrons must abide by state regulations of seasons, hours, and fishing/baiting methods, and as otherwise designated from time to time in park regulations.
- (3) Keep any largemouth bass smaller than 14 inches in length. These must be immediately returned unharmed to the park lake.
- (4) Keep more than three largemouth bass, 14 inches in length or larger, caught in a single day's fishing. All excess largemouth bass must be immediately returned unharmed to the park lake.

(b) A violation of this section is punishable as a misdemeanor.

(Ord. of 6-17-91(2), § 5; Ord. No. 2003-02, § 5, 1-27-03; Ord. No. 2003-03, § 5, 2-17-03; Ord. No. 2017-29, 5-15-17; Ord. No. 2021-32, § 10, 12-20-21)

Sec. 50-6. Water activities.

(a) It shall be unlawful to:

- (1) Operate any unapproved mode of conveyance upon any body of water in the park, including without limitation, any lake or stream. This policy extends to and includes without limitation, any type of boat (motorized or not motorized), rafts and inner tubes as well as remote controlled models, whether fuel or battery propelled. However, battery operated model boats are permitted on the lake when park paddleboats are closed.
- (2) Launch an authorized mode of conveyance from a trailer, car or truck except at a launch area designated by park management.
- (3) Operate or ride as a passenger in any county operated form of boat, canoe or kayak unless each person is wearing a United States Coast Guard approved personal floatation device.
- (4) Swim or wade in a park body of water except when permitted as an authorized park program or pursuant to posted regulation.

(b) A violation of this section is punishable as a misdemeanor.

(Ord. of 6-17-91(2), § 6; Ord. No. 2003-02, § 6, 1-27-03; Ord. No. 2003-03, § 6, 2-17-03; Ord. No. 2017-29, 5-15-17; Ord. No. 2021-32, § 10, 12-20-21)

Sec. 50-7. Camping; fires; picnic areas.

(a) It shall be unlawful to:

- (1) Camp (tent camp or otherwise) or park a car, trailer, or camper for the purpose of camping or overnight stay anywhere in any park/recreation facility except in areas specifically designated for camping during authorized times for camping.
- (2) Kindle, build, maintain or use a fire except in places specifically designated for such purposes and at such times as authorized by park officials. Any fire must be continuously under the care and

direction of a competent and responsible person, at least 16 years of age, from the time it is kindled until it is fully extinguished. No person shall throw away or discard any match, lighter, paper or any other potentially flammable material within park property, including without limitation, around any building, boat or vehicle or under any tree or in underbrush. All such materials shall be disposed of in containers specifically designed from such disposal and shall be fully extinguished prior to such disposal. Unless posted otherwise, patrons may bring gas or charcoal grills for use in the park. These grills must be used only in designated picnic areas and must be placed within three feet of the stationary grills provided in the park. No grills of any kind are permitted within the perimeter of or under any shelter. All hot coals must be fully extinguished prior to disposal.

- (3) Bring deep fat frying or grease pots into the park/recreation facility.
- (4) Gas powered generators are allowed by written department permit only.
- (5) Hold a picnic in the park except in areas specifically designated as picnic sites.

(b) A violation of this section is punishable as a misdemeanor.

(Ord. of 6-17-91(2), § 7; Ord. of 7-22-93; Ord. of 11-1-93; Ord. No. 2003-02, § 7, 1-27-03; Ord. No. 2003-03, § 7, 2-17-03; Ord. No. 2008-01, § 2, 1-22-08; Ord. No. 2017-29, 5-15-17; Ord. No. 2021-32, § 10, 12-20-21)

Sec. 50-8. Prohibit smoking and the use of other tobacco products on grounds of the county's parks system and in buildings located in the county's parks system.

(a) *[Enacting legislation.]* This section is enacted pursuant to G.S. 130A-498 and 153A-121(a).

(b) *Implementation requirements.*

- (1) The county shall post signs that meet all the requirements in subsection (c) of this section.
- (2) The county shall remove all ashtrays and other smoking receptacles from the grounds of the county's parks system and buildings located in the county's parks system.
- (3) All department personnel or sworn law enforcement officials, or their designee, shall direct a person who is smoking or using a tobacco product on park/recreation facility grounds to cease and, if the person does not comply, shall write a citation for the offense.

(c) *Signage.* The signs required by implementation requirements must:

- (1) State in English that smoking and the use of tobacco products are prohibited and include the universal "No Smoking and Use of Tobacco Products Prohibited" symbol.
- (2) Be of sufficient size to be clearly legible to a person of normal vision and be conspicuously posted.
- (3) Be posted at each entrance of the buildings located in the county's parks system and in other locations within the buildings reasonably calculated to inform employees and the public of the prohibition.
- (4) Be posted on the grounds of the county's parks/recreation facilities system in locations and at intervals reasonably calculated to inform employees and the public of the prohibition.

(d) *Enforcement and penalties.*

- (1) *Penalty for violation.* Following oral notice by department personnel or sworn law enforcement officials, or their designee, failure to cease smoking or using tobacco products constitutes an infraction punishable by a fine of not more than \$50.00. A citation may be issued by a sworn law enforcement officer or department staff

or their designee. Conviction of an infraction under this section has no consequence other than payment of a penalty, and no court costs may be assessed. Additionally, "enforcement" is as defined in section 50-13, enforcement of chapter.

- (2) *Additional sanctions for employees.* In addition to any penalty under subsection (d), employees of the county who violate this section shall be subject to disciplinary action consistent with the county's human resources policies.

(Ord. of 6-17-91(2), § 8; Ord. No. 2003-02, § 8, 1-27-03; Ord. No. 2003-03, § 8, 2-17-03; Ord. No. 2011-28, § 1, 6-20-11; Ord. No. 2017-29, 5-15-17)

Sec. 50-9. Aviation.

It shall be unlawful for any person within the confines of the park to voluntarily launch, take off, land, or cause to descend or take off any airplane, flying machine, balloon, parachute, or other apparatus of aviation, except by special permit. Voluntarily shall mean any action other than a forced landing. This section shall also apply to radio-controlled airplanes, helicopters, rockets, etc. However, kite flying in open areas is permitted. A violation of this section is punishable as a misdemeanor.

(Ord. of 6-17-91(2), § 9; Ord. No. 2003-02, § 9, 1-27-03; Ord. No. 2003-03, § 9, 2-17-03; Ord. No. 2021-32, § 10, 12-20-21)

Sec. 50-10. Hours of operation.

It shall be unlawful for any person to enter or remain in the park/recreation facility except during those hours of operation that it is open to the general public. Park/recreation facility hours of operation will be posted and may be changed from time to time by the board of commissioners. Cabin and tent renters are exempt. A violation of this section is punishable as a misdemeanor.

(Ord. of 6-17-91(2), § 10; Ord. No. 2003-02, § 10, 1-27-03; Ord. No. 2003-03, § 10, 2-17-03; Ord. No. 2017-29, 5-15-17; Ord. No. 2021-32, § 10, 12-20-21)

Sec. 50-11. Vehicles and parking.

- (a) It shall be unlawful for any person to:
- (1) Drive any vehicle of any sort within the park except on the paved roads or parking areas, or such areas as may on occasion be specifically designated as temporary areas for such use.
 - (2) Park a vehicle anywhere except on a designated parking area. This includes school parks.
 - (3) Leave a vehicle standing or parked in established parking areas or elsewhere in the park during hours when the park is closed.
 - (4) Leave a bicycle or scooter in a place other than a bicycle rack when such is provided and there is space available.
 - (5) Ride a bicycle, scooter, skates of any description, etc. or operate or ride in or on any other self-propelled or motor-propelled mode of transportation without reasonable regard to the safety of others. Bicycles, skateboards, skates of any description, etc. are not permitted on tennis courts at any time.
 - (6) Leave a bicycle, scooter, skateboard, etc. lying on the ground or pavement or against trees, or in any place or position where other persons may trip over or be injured by it.
 - (7) Unless otherwise posted, operate a vehicle of any kind in excess of 19 miles per hour within the park/recreation facilities.
 - (8) Operate a motorized trail bike or any other motorized vehicle or mode of transportation designed primarily for off-road use within the confines of the park, except in clearly designated areas.
 - (9) Park a vehicle or any other mode of transportation in a towing area, such as a handicapped parking area, on the grass, or on the shoulder of a road. Any vehicle so parked may be towed at the owner's expense. The decision to tow a vehicle will be made by the department official or any other proper county personnel.

- (10) Stop or park a vehicle or place any table, tent, etc., or any other object whatsoever, in any area that is designated as a fire lane.
- (11) The use of skates, skateboards, etc. is prohibited in or about county facilities and surrounding premises unless expressly permitted by formal authority of the board of county commissioners or county manager.
- (12) Park in designated fire lanes, rights-of-way or no parking areas. Park in unmarked spaces unless directed by department or county enforcement officials.
- (13) Park a vehicle overnight. Any vehicle parked overnight may be towed at the owner's expense.

(b) A violation of this section is punishable as a misdemeanor.
 (Ord. of 6-17-91(2), § 11; Ord. No. 2003-02, § 11, 1-27-03; Ord. No. 2003-03, § 11, 2-17-03; Ord. No. 2008-01, § 3, 1-22-08; Ord. No. 2017-29, 5-15-17; Ord. No. 2021-32, § 10, 12-20-21)

Cross reference—Traffic and vehicles, ch. 74.

Sec. 50-12. Personal conduct.

- (a) It shall be unlawful for any person to:
 - (1) Engage in criminal, disorderly, immoral, or abusive conduct of any kind within department facilities or during a department sponsored program. Disorderly conduct shall be determined at the discretion of department officials and county enforcement authorities.
 - (2) Engage in any activity that may constitute a hazard to the safety of him or other persons. Such activities may include, but are not limited to, archery, hitting of golf balls, and horseback riding. Whether an activity is hazardous shall be determined at the discretion of department officials and county enforcement authorities.
 - (3) Dispose of lit or unlit matches, lighters, or any potentially flammable material or

substance of any kind or nature in other than containers designated for such items at department facilities.

- (4) Engage in threatening, harassing, abusive, derogatory, insulting or indecent language (verbal or physical), or excessively noisy conduct of any kind at any time within a department facilities or during a department sponsored event, such that it unreasonably disturbs other patrons or neighbors. Department enforcement authorities and county enforcement authorities are empowered to determine whether noise is excessive or unreasonably disturbing.
- (5) Throw rocks or objects of any kind. However, this does not include balls, frisbees, or other game equipment used in athletic events, when used in a reasonable manner and in such a way that they do not become hazards to other patrons.
- (6) Solicit, peddle or beg within any park/recreation facility or sell any merchandise or wares; provided, this subsection does not apply to (a) any concession rights granted by the department, or (b) any solicitation or sale of goods by nonprofit or civic groups, provided that a written permit is obtained in advance from the department.
- (7) Interfere with or in any manner hinder any county employee or department employee, the county, the state, or any of their appointed agents in the performance of his duties.
- (8) Enter any closed area including the pool, paddleboats, mini-golf, buildings, athletic fields (including school parks), or closed facility including parks, trails, and centers.
- (9) Engage in or threaten physical violence.
- (10) Remove department property without permission by department official. Damage department property.

(b) A violation of this section is punishable as a misdemeanor.

(Ord. of 6-17-91(2), § 12; Ord. No. 2003-02, § 12, 1-27-03; Ord. No. 2003-03, § 12, 2-17-03; Ord. No. 2017-29, 5-15-17; Ord. No. 2021-32, § 10, 12-20-21)

Sec. 50-13. Enforcement of chapter.

(a) In addition to other enforcement and sanction provisions hereunder, violators may be punishable by immediate suspension from all properties for not more than 60 days for the first offense. Department officials may suspend violators up to one year on their first offense dependent on the severity of the offense. Thereafter, suspension may be for such time deemed appropriate by the board of commissioners. The department director and/or designee (including without limitation, department officials and county enforcement authorities) are empowered to invoke and enforce this suspension. An effort will be made to send a certified letter to anyone suspended from the facilities advising them of why they were banned, how long the suspension is, what facilities are affected, and what will happen if they don't abide by the ban.

(b) Department personnel authorized by the board of commissioners and county law enforcement authorities shall have the duty and responsibility to enforce this chapter and shall be empowered to issue citations for violations as set forth herein when in their judgment, any provisions have been violated.

(c) In addition to the enforcement and sanction provisions of this chapter, department personnel authorized by the board of commissioners as well as county law enforcement authorities shall have all enforcement and sanction provisions available to them pursuant to the North Carolina General Statutes. This authority shall include without limitation, assessment of any state and/or county fines and penalties applicable to any ordinance citation. Each person receiving a citation must, within 30 calendar days of its issuance, pay as a penalty and in full satisfaction of the fine, the total monetary sum set forth in the citation. However, in the event the fine is paid within 14 calendar days of issuance of the cita-

tion, the county will accept one-half of the full fine amount as full and complete satisfaction of the fine. Payment of the fine does not relieve the recipient of the citation from compliance with any other requirements set forth in the citation. Notwithstanding any other term or condition herein, failure of such person to render payment of the full amount of the fine within 30 days of the issuance of the citation, may render such person subject to collection proceedings and/or punishment for a civil offense or misdemeanor, as set forth herein and in the North Carolina General Statutes. Violation fines and penalties may be revised from time to time by the board of commissioners and shall be deemed incorporated herein as they may be amended from time to time.

(Ord. of 6-17-91(2), § 13; Ord. No. 2003-02, § 13, 1-27-03; Ord. No. 2003-03, § 13, 2-17-03; Ord. No. 2017-29, 5-15-17)

Sec. 50-14. Violations and fines.

(a) Parking and speeding/reckless driving violations with corresponding fines are listed on Schedule 1, which is on file in the county offices and incorporated as if fully set forth herein. The board of commissioners may amend Schedule 1 from time to time.

(b) Violations of section 50-5(2), (3) or (4) are punishable by the appropriate penalties and/or laws governing inland waters, as set forth by the state wildlife resources commission. Any and all enforcement officers of the wildlife commission have full authority to enforce these regulations.

(c) Violation of section 50-8 is punishable by a \$50.00 fine.

(d) Violation of section 50-12(1), (2), (4), (9) or (10) is punishable by written warning, \$50.00 fine and/or suspension for a period of not more than 60 days, unless designated by board of commissioners.

(e) Violations of this chapter may also constitute a civil offense and/or a misdemeanor pursuant to the applicable North Carolina General

Statutes and may be punishable by additional fines or sanctions, including imprisonment not exceeding 30 days.

(Ord. of 6-17-91(2), §§ 14, 15; Ord. No. 2003-02, § 14, 15, 1-27-03; Ord. No. 2003-03, § 14, 2-17-03; Ord. No. 2011-28, § 1, 6-20-11; Ord. No. 2017-29, 5-15-17)

Sec. 50-15. Other relief available.

In addition to remedies and sanctions set forth in this chapter, the chapter may be enforced by any other appropriate remedies and sanctions authorized by North Carolina General Statutes. All enforcement remedies and sanctions are cumulative.

(Ord. No. 2003-03, § 15, 2-17-03; Ord. No. 2017-29, 5-15-17)

Secs. 50-16—50-30. Reserved.

ARTICLE II. SEX OFFENDERS

Sec. 50-31. Definitions.

Whenever used in this article, the following terms, unless otherwise expressly defined, shall mean and include each of the meanings set forth below.

County means Cabarrus County.

Department means the Cabarrus County Active Living and Parks Department.

Park means all parks, playgrounds, recreation facilities, greenways, water areas, wildlife refuges, nature preserves or other recreation areas, including any adjacent public parking area as well as the driveway, entrance way or pedestrian walkway used by the public to access the park or recreation facility, developed or undeveloped, and structures thereon, owned, operated, leased or managed by the county.

Official meeting means a meeting that is required to be open to the public by the Open Meetings Law, Article 33C of Chapter 143 of the North Carolina General Statutes.

Recreation facility means any publicly owned, leased, operated or maintained property that is designated or used as a recreation facility by the

county and including any adjacent public parking area as well as the driveway, entrance way or pedestrian walkway used by the public to access the recreation facility.

Registered sex offender means any individual who is required to register or is registered with the North Carolina Sex Offender and Public Protection Registry (established under Article 27A of Chapter 14 of the North Carolina General Statutes) or, the Dru Sjodin National Sex Offender Public Registry (maintained by the United States Department of Justice), or any other official state or federal registered sex offender listing maintained by either the United States Department of Justice or any of the several states. For purposes of determining if an individual is registered or is required to register with any one of the official registries, law enforcement officers may rely upon the official website of any state or federal registry of sex offenders and the descriptions published and available from such registry. (Ord. No. 2009-04, § 1, 1-20-09; Ord. No. 2017-29, 5-15-17)

Sec. 50-32. Prohibition.

No registered sex offender shall enter into or upon any park or recreation facility owned, leased, operated or maintained by the county except as permitted by section 50-33. A violation of this section is punishable as a misdemeanor. (Ord. No. 2009-04, § 2, 1-20-09; Ord. No. 2021-32, § 10, 12-20-21)

Sec. 50-33. Limited exceptions.

(a) *Polling place.* When a park or recreation facility is used as a polling place for an election, the registered sex offender may enter for the limited purpose of voting if he has right to vote and qualifies to do so at that polling place.

(b) *Official meetings.* A registered sex offender who has the right to be present at an official meeting shall have the limited privilege of entering on and into a park or recreation facility for such time as is necessary to attend that meeting or function, but loitering or lingering in any form shall be a violation of this article.

The privilege shall only extend to those parts of the park and/or recreation facility that are being used for meetings of that kind and any registered sex offender found outside of those parts shall be punished as provided in section 50-37.

(c) *Consistency with the Jessica Lunsford Act.* After November 30, 2008, any action prohibited by this article that would also be a violation of G.S. 14-208.18(2008) shall no longer be considered a violation of this article. For example, after November 30, 2008:

- (1) A registered sex offender who enters a park and/or recreation facility playground will no longer be in violation of this article because of the prohibition of the same conduct by G.S. 14-208.18(a)(1)(2008);
- (2) A registered sex offender who enters park and/or recreation facility property that is held open to the general public that at the time in question is being used for a youth birthday party may not be deemed in violation of this article because of the prohibition of the same conduct by G.S. 14-208.18(a)(2)(2008); and
- (3) A registered sex offender will not be in violation of this article for being on park and/or recreation facility property where minors have gathered for regularly scheduled recreational programs because of the prohibition of the same conduct by G.S. 14-208.18(a)(3)(2008).

(Ord. No. 2009-04, § 3, 1-20-09)

Sec. 50-34. Scope.

Territorial scope. This article shall be effective within and upon all county parks and recreation facilities and shall regulate the use thereof by all persons.

(Ord. No. 2009-04, § 4, 1-20-09)

Sec. 50-35. Enforcement.

(a) *Enforcement.* Duly sworn law enforcement officers with jurisdiction within the county parks and recreation facilities shall have the duty to enforce this article.

(b) *Detaining a subject.* A law enforcement officer may detain a person within a county park or recreation facility under this article for a reasonable amount of time to inquire about that person's status as a registered sex offender if the officer reasonably believes, or has probable cause to believe, that the person is a registered sex offender who is in violation of this article or has committed a crime for which the person, if convicted, could be required to register as a sex offender. Nothing in this section shall limit a law enforcement officer from running any background check that is currently permissible under the law.

(Ord. No. 2009-04, § 5, 1-20-09)

Sec. 50-36. Construction of article.

In the interpretation of this article:

- (1) Any term in the singular shall include the plural;
- (2) Any term in the masculine shall include the feminine and the neuter;
- (3) Any requirement or prohibition of any act shall, respectively, extend to and include the causing or procuring, directly or indirectly, of such act;
- (4) No provision of this article shall make unlawful any act necessarily performed by any officer or employee of the county or the department in the line of duty or work as such, or by any person, his agents or employees, in the proper and necessary execution of the terms of any agreement of the county or the department;
- (5) This article is in addition to and supplements state law.

(Ord. No. 2009-04, § 6, 1-20-09)

Sec. 50-37. Penalty.

Violation of section 50-32 shall be a class 3 misdemeanor and shall be punishable by a fine of up to \$500.00 and/or incarceration for a period of time as outlined in G.S. 15A-1340.20 et seq. Each and every entrance into a park or recreation

facility, regardless of the time period between such entries, shall constitute a separate offense under this article.

(Ord. No. 2009-04, § 7, 1-20-09)

Sec. 50-38. Severability.

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

(Ord. No. 2009-04, § 8, 1-20-09)

Sec. 50-39. Signage.

Each park and recreation facility should be posted to the effect that registered sex offenders are prohibited so that such persons and the general public are made aware of this article. Notwithstanding this section concerning signage, it shall not be a defense to a prosecution under this article that the park or recreation facility contained no signage.

(Ord. No. 2009-04, § 9, 1-20-09)

Chapters 51–53

RESERVED

Chapter 54

PERSONNEL*
(RESERVED)

***Editor's note**—The county's personnel ordinance is on file in the office of the county manager.
State law reference—Authority to adopt personnel rules, G.S. 126-11(a).

Chapters 55, 56

RESERVED



Chapter 57

RESERVED*

***Editor's note**—Ord. No. 2010-01, adopted Mar. 15, 2010, rescinded ch. 57 which consisted of §§ 57-1—57-23, pertained to soil erosion and sedimentation and derived from Ord. No. 1999-09, adopted Dec. 20, 1999.

Chapter 58

SOLID WASTE MANAGEMENT*

Article I. In General

- Sec. 58-1. Purpose and statutory authority of chapter.
- Sec. 58-2. Definitions.
- Sec. 58-3. Reserved.
- Secs. 58-4—58-35. Reserved.

Article II. Collection, Storage and Disposal

- Sec. 58-36. Storage and disposal.
- Sec. 58-37. Landfill management.
- Sec. 58-38. Source separation and recycling.
- Sec. 58-39. Flow control.
- Secs. 58-40—58-60. Reserved.

Article III. Solid Waste Collectors

Division 1. Generally

- Sec. 58-61. Report to county manager required.
- Sec. 58-62. Vehicles and containers.
- Secs. 58-63—58-80. Reserved.

Division 2. License

- Sec. 58-81. Required.
- Sec. 58-82. Application.
- Sec. 58-83. Inspection of facilities and equipment.
- Sec. 58-84. Issuance or denial.
- Sec. 58-85. Notice; revocation; appeal.
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***State law references**—Solid waste management generally, G.S. 130A-290 et seq.; solid waste management plans, G.S. 130A-294; authority to enact ordinances governing the removal, method and manner of disposal, depositing or dumping trash, debris, garbage or litter, G.S. 153A-132.1; authority to regulate the storage, collection, transportation, use, disposal of solid wastes, G.S. 153A-136; special provisions for solid waste collection and disposal, G.S. 153A-291 et seq.

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- Sec. 58-116. Disputes.
- Sec. 58-117. Assignability.
- Sec. 58-118. Abandonment.
- Sec. 58-119. Termination or suspension.

ARTICLE I. IN GENERAL

Sec. 58-1. Purpose and statutory authority of chapter.

The purpose of this chapter is to regulate the storage, collection, and disposal of solid waste in the county. This ordinance is adopted pursuant to the authority contained in G.S. 153A-121, 153A-132.1, 153A-136, 153A-274 through 153A-278, and 153A-291 through 153A-293, and 130A-309.09, 130A-309.09A, 130A-309.09B, and 130A-309.09D. Unless otherwise indicated, the chapter applies to both publicly-owned and privately-owned municipal solid waste management facilities located in the county.
(Ord. of 6-15-92, § I)

Sec. 58-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the board of county commissioners.

Bulky waste means large items of solid waste such as furniture, large auto parts, trees, branches, stumps, and other oversize wastes whose large size precludes or complicates their handling by normal solid waste collection, processing, or disposal methods.

Cabarrus County means all area within the boundaries of Cabarrus County not within the corporate limits of any town, city or other incorporated municipality as of the effective date of the ordinance from which this chapter is derived, together with all territory which is also within the corporate limits, as such corporate limits may change from time to time, of the Towns of Harrisburg and Mt. Pleasant and the City of Kannapolis, including that portion of the City of Kannapolis located within Rowan County.

Collection means the act of removing solid waste, or materials that have been separated for the purpose of recycling, to a transfer station, processing facility, or disposal facility.

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial waste.

Construction and demolition waste means solid waste resulting solely from construction, remodeling, repair, or demolition operations on buildings or other structures, but does not include inert debris, land-clearing debris, yard debris, or used asphalt, asphalt mixed with dirt, sand, gravel, rock, concrete, or similar nonhazardous material.

County means Cabarrus County government.

Department means the department of environment, health and natural resources.

Garbage means all putrescible waste, including animal offal and carcasses, and recognizable industrial byproducts, but excluding sewage and human waste.

Hazardous waste means solid waste, or a combination of solid wastes, that because of its quantity, concentration or physical, chemical or infectious characteristics may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Incineration means the process of burning solid, semisolid, or gaseous combustible wastes to an inoffensive gas and a residue containing little or no combustible material.

Industrial solid waste means solid waste generated by industrial processes and manufacturing.

Inert debris means solid waste that consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.

Institutional solid waste means solid waste generated by educational, health care, correctional, and other institutional facilities.

Land-clearing debris means solid waste that is generated solely from land-clearing activities.

Landfill means a disposal facility or part of a disposal facility where waste is placed in or on land and that it is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste longterm storage facility or a surface storage facility.

Medical waste means any solid waste that 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, radioactive waste, household waste, as defined in 40 CFR 261.4(b)(1), or those substances excluded from the definition of solid waste in this chapter.

Municipal solid waste means solid waste resulting from the operation of residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. Municipal solid waste does not include hazardous waste, sludge, or solid waste from mining or agricultural operations.

Municipal solid waste management facility means any publicly- or privately-owned solid waste management facility permitted by the department that receives municipal solid waste for processing, treatment, or disposal.

Pathological waste means human tissues, organs, and body parts, and the carcasses and body parts of any 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 in vivo testing of pharmaceuticals, or that died with a known or suspected disease transmissible to humans.

Person means any individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.

Processing means any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport; amenable to recovery, storage, or recycling; safe for disposal; or reduced in volume or concentration.

Putrescible means 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 animal carcasses.

Radioactive waste means waste containing any materials, whether solid, liquid, or gas, that emits ionizing radiation spontaneously.

Recycling means the process by which solid waste or recovered materials are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.

Refuse means solid waste, other than garbage or ashes, from residences, commercial establishments, and institutions.

Regulated medical waste means blood and body fluids in individual containers in volumes greater than 20 ml, microbiological waste, and pathological waste that has not been treated pursuant to rules promulgated by the department.

Resource recovery means the process of obtaining material or energy resources from discarded solid waste that no longer has any useful life in its present form and preparing the solid waste for recycling.

Sanitary landfill means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted pursuant to G.S. 130A-290 et seq.

Scrap tire means a tire that is no longer suitable for its original, intended purpose because of wear, damage, or defect.

Septage means solid waste that is a fluid mixture of untreated and partially treated sewage

solids, liquids, and sludge of human or domestic origin that is removed from a septic tank system.

Sharps mean needles, syringes, and scalpel blades.

Sludge means any solid, semisolid, or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, or any other waste having similar characteristics and effects.

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:

- (1) Fecal waste from fowls and animals other than humans;
- (2) Solid or dissolved material in
 - a. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment, and disposal systems that are designed to discharge effluents to the surface waters;
 - b. Irrigation return flows; and
 - c. 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 purposes of this definition;

- (3) Oils and other liquid hydrocarbons controlled under G.S. 143-215.75 et seq. 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 definition;
- (4) Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 USC 2011);
- (5) Mining refuse covered by the state mining act, G.S. 74-46 through G.S. 74-68 and regulated by the state mining commission. 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 definition.

Solid waste collector means any person who collects or transports solid waste.

Solid waste disposal site means a location at which solid waste is disposed of by incineration, sanitary landfill, or other approved method.

Solid waste receptacle means a container used for the temporary storage of solid waste while awaiting collection.

Source separation means setting aside recyclable materials at their point of generation by the generator.

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).

Transfer station means a site at which solid waste is concentrated for transport to a processing facility or disposal site. A transfer station may be fixed or mobile.

Used oil means any oil that 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.

White goods means inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

Yard trash means solid waste consisting solely of vegetative matter resulting from landscaping maintenance.

(Ord. of 6-15-92, § II; Ord. No. 1997-14, 11-17-97)

Cross reference—Definitions generally, § 1-2.

Sec. 58-3. Reserved.

Editor’s note—Ord. No. 2021-32, § 11, adopted Dec. 20, 2021, repealed § 58-3, which pertained to enforcement of chapter and derived from Ord. of 6-15-92, § IX.

Secs. 58-4—58-35. Reserved.

ARTICLE II. COLLECTION, STORAGE AND DISPOSAL*

Sec. 58-36. Storage and disposal.

(a) No owner, occupant, tenant, or lessee of any property may deposit, store, or permit to accumulate any solid waste on his property that is not stored or disposed of in a manner prescribed by this article.

(b) The owner, occupant, tenant, or lessee of any property shall remove or cause to be removed all solid waste from his property at least once each week, a seven-day period.

(c) Garbage shall be stored only in a container that is durable, rust resistant, nonabsorbent, watertight, and easily cleaned, with a closefitting, flytight cover in place, with adequate handles or bails to facilitate handling. The capacity of containers used for individual residences may not exceed 39 gallons. The EPA recommends a maximum capacity of 35 gallons unless the containers are equipped with casters and can be served by being rolled to the collection vehicle, as specified in 40 CFR 243.200-2(a)(1). Solid waste receptacles may also be used for storage provided they meet the requirements of this subsection.

***State law reference**—Authority to provide for the removal and disposal of trash and garbage, etc., G.S. 153A-132.1.

The number of containers shall be adequate to store one week's accumulation of garbage. Each container shall be kept clean so that no odor or other nuisance condition exists.

(d) Refuse shall be stored in a manner that will resist harborage to rodents and vermin and will not create a fire hazard. Regulated refuse under this subsection includes, but is not limited to, lumber, boxes, barrels, bottles, cans, tires, paper, cardboard, rags, old furniture and other bulky waste, and white goods. Useful materials, such as firewood and building materials, may be stored on the premises, provided they are stored in a safe manner at a reasonable height aboveground.

(e) No owner, occupant, tenant, or lessee of a building or dwelling, other than a licensed junk dealer, may place or leave or cause to be placed or left outside the building or dwelling any bulky waste for longer than 72 hours.

(f) No owner, occupant, tenant, or lessee of any building or dwelling may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended icebox, refrigerator, or other receptacle that has an airtight door, without first removing the door.

(g) Solid waste shall be disposed of only in one of the following ways:

- (1) In a landfill approved by the department;
- (2) In an incinerator that has all required local, state, and federal control permits;
- (3) By any other method, including recycling and resource recovery, that has been approved by the department.

(h) In addition to the methods listed in subsection (g) of this section, refuse may be disposed of in solid waste receptacles provided by the county.

(i) No person may discard, dispose, leave, or dump any solid waste on or along any street or highway or on public or private property unless such solid waste is placed in a receptacle or at a location designated for the deposit of solid waste.

(j) Construction wastes must be disposed of at disposal sites approved and permitted by the department.

(k) Regulated medical, hazardous, and radioactive waste must be disposed of according to written procedures approved by the department.

(l) Any person collecting and transporting solid waste generated on such person's property for disposal at an approved disposal site shall comply with section 58-62 concerning vehicles and containers.

(m) All sharps shall be placed in a sealed, puncture-proof container prior to disposal.

(n) Open burning of solid waste is prohibited.

(o) A violation of this section is punishable as a misdemeanor.
(Ord. of 6-15-92, § III; Ord. No. 2021-32, § 11, 12-20-21)

Sec. 58-37. Landfill management.

(a) The county sanitary landfill may be used for the disposal of municipal solid waste generated within the county and within adjacent counties. The landfill shall be open during business hours as established by the board. In emergencies, the landfill may be opened for additional hours as directed by the county manager or the manager's representative. Except when open during regular business hours, the landfill shall be kept locked, and entry shall not be permitted. Solid waste shall be disposed of at the landfill in the manner and according to procedures established by the county manager or his representative.

(b) The following wastes may not be disposed of in the county sanitary landfill or in any privately owned municipal solid waste landfill:

- (1) Burning or smoldering materials or any other materials that would create a fire hazard;
- (2) Hazardous waste;
- (3) Lead-acid batteries;
- (4) Liquid waste;
- (5) Untreated regulated medical waste;
- (6) Radioactive waste;
- (7) Tires, unless they have been halved or shredded;

(8) Used oil

(9) White goods;

(10) Yard trash.

(c) The following wastes may be accepted on a conditional basis only, state regulations require that these wastes receive special treatment before they are placed in a landfill:

(1) Asbestos;

(2) Barrels;

(3) Sludges.

Conditionally acceptable wastes may be disposed of in accordance with department regulations and policies promulgated by the county manager. Generators of conditionally acceptable waste shall obtain prior approval from the landfill administrator at least three working days before transporting conditionally approved wastes to the landfill.

(d) No person may loiter or rummage about the landfill or remove articles therefrom.

(e) No person may deposit material at any point in the landfill except where indicated by authorized employees of the landfill or by official signs.

(f) No person may discharge firearms, fireworks, or explosives on landfill property.

(g) The maximum allowable speed of vehicles at the landfill is ten miles an hour.

(h) A violation of this section is punishable as a misdemeanor.
(Ord. of 6-15-92, § IV; Ord. of 8-21-95; Ord. No. 1997-14, 11-17-97; Ord. No. 2021-32, § 11, 12-20-21)

Sec. 58-38. Source separation and recycling.

(a) Each person who owns, leases, or manages a residence or residential unit shall remove recyclable materials from the solid waste generated as required in subsection (b) of this section and make them available for recycling as required in subsection (c) of this section. Nothing in this

article is intended to prevent any person from donating or selling recyclable materials to any other person.

(b) All recyclable material shall be separated from other solid waste and made available for recycling. Recyclable material shall not be mixed with or disposed of with other solid waste. Recyclable material shall consist of the following items and shall be prepared for recycling as directed:

- (1) *Glass.* All brown, green, and clear glass shall be rinsed.
- (2) *Cans.* Aluminum cans shall be flattened.
- (3) *Plastic milk jugs.* All plastic milk jugs shall be rinsed and either securely bound together or placed in plastic bags. The caps shall be removed.
- (4) *Other plastic bottles.* Other plastic bottles shall be separated by resin type and rinsed.
- (5) *Newsprint.* All newsprint shall be bundled together and protected so that it does not become wet from rain or other forms of precipitation.

(c) Where subscriber recycling services are provided, all recyclable material shall be placed in boxes or bins at curbside prior to 7:30 a.m. each day or days of week such material is collected, or shall be placed in recycling collection centers provided by the county.

(d) Ownership of recyclable materials.

- (1) After recyclable material has been placed in a designated container at a collection center designated by the county or its authorized agent, or has been placed at curbside in designated containers for collection, the recyclable material shall become the property of the county or its authorized agent.
- (2) During the 12-hour period commencing at 7:30 p.m. on any day preceding a day designated for subscriber curbside collection of recyclable material, no person, other than a county employee or the county's authorized agent, may remove

recyclable material from a designated container that has been placed at a designated recycling location.

(e) A violation of this section is punishable as a misdemeanor.
(Ord. of 6-15-92, § V; Ord. No. 1997-14, 11-17-97; Ord. No. 2021-32, § 11, 12-20-21)

Sec. 58-39. Flow control.

(a) All solid waste generated within the designated geographic area of the county solid waste management plan that is placed in the waste stream for disposal or recycling shall be collected, transported, and disposed of at the county resource recovery facility or the county landfill or other appropriate facility designated by the board. The removal of solid waste from within the geographic area for disposal is prohibited. Where authorized by the division of solid waste, state department of environment, health and natural resources, the disposal of municipal solid waste generated in adjacent counties is permitted in county-owned municipal solid waste management facilities. This section shall not be construed to prohibit the source separation of materials from solid waste prior to collection of such solid waste for disposal.

(b) No person, except licensed private collectors and county or municipal collectors, shall collect or remove any solid waste within the county for disposal.

(c) The county manager shall establish a system of classification for classes of solid waste that shall be consistent with a system of classification in the solid waste management plan. The classification system shall be used as a basis for requiring that solid waste be delivered to an appropriate county disposal facility in accordance with the solid waste management plan.

(d) A violation of this section is punishable as a misdemeanor.
(Ord. of 6-15-92, § VI; Ord. of 8-21-95; Ord. No. 1997-14, 11-17-97; Ord. No. 2021-32, § 11, 12-20-21)

Secs. 58-40—58-60. Reserved.

**ARTICLE III. SOLID WASTE
COLLECTORS***

DIVISION 1. GENERALLY

Sec. 58-61. Report to county manager required.

(a) When requested by the county manager, a licensee shall submit a report to the county manager containing the following information:

- (1) Number of customers added or deleted;
- (2) Changes in routes;
- (3) New and replacement equipment;
- (4) Any other information requested by the county manager and pertinent to the solid waste collection business.

(b) A violation of this section is punishable as a misdemeanor.
(Ord. of 6-15-92, § VII(E); Ord. No. 1997-14, 11-17-97; Ord. No. 2021-32, § 11, 12-20-21)

Sec. 58-62. Vehicles and containers.

(a) Vehicles and containers used for the collection and transportation of solid waste shall be covered, leakproof, durable, and easily cleaned. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair. Vehicles shall display in numbers at least three inches high the county license number of the licensee and the license sticker issued by the county manager.

(b) Vehicles and containers used for the collection and transportation of solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill, and shall be covered to prevent the blowing of material. If spillage or leakage should occur, the material shall be recovered immediately by the licensee and returned to the vehicle or container, and the area properly cleaned.

*Cross reference—Traffic and vehicles, ch. 74.

State law reference—Authority to regulate collectors of solid waste, G.S. 153A-136(a).

(c) A violation of this section is punishable as a misdemeanor.

(Ord. of 6-15-92, § VII(F); Ord. No. 1997-14, 11-17-97; Ord. No. 2021-32, § 11, 12-20-21)

Secs. 58-63—58-80. Reserved.

DIVISION 2. LICENSE†

Sec. 58-81. Required.

No person may engage in business as a solid waste collector except under a license issued by the county pursuant to this division. A violation of this section is punishable as a misdemeanor.
(Ord. of 6-15-92, § VII(A); Ord. No. 2021-32, § 11, 12-20-21)

Sec. 58-82. Application.

Applications for licenses to engage in the business of solid waste collector shall be filed with the county manager on forms approved by the county manager. The applicant shall provide the required performance bond and shall furnish the following information:

- (1) Name and address of the applicant and whether a sole proprietorship, corporation, or partnership, with disclosure of the ownership interests;
- (2) A list of the equipment possessed, available, or to be obtained by the applicant, including motor vehicle license tag numbers;
- (3) Number of employees the applicant expects to use in the business;
- (4) Experience of the applicant in solid waste collection;
- (5) Balance sheet, consolidated annual financial statement, or equivalent financial statement as of the close of the applicant's last business year, showing the net worth of the business;
- (6) Planned routes and areas of the county the applicant expects to serve;

†State law reference—Authority to require a license, G.S. 153A-136(a).

- (7) Schedule of fees the applicant expects to charge;
 - (8) Evidence of liability insurance coverage;
 - (9) Name and location of the facility where collected waste is to be disposed of.
- (Ord. of 6-15-92, § VII(B); Ord. No. 1997-14, 11-17-97)

Sec. 58-83. Inspection of facilities and equipment.

Before issuing a license pursuant to this section, the county manager shall inspect or cause to be inspected all facilities and equipment the applicant plans to use in the solid waste collection business.
(Ord. of 6-15-92, § VII(C); Ord. No. 1997-14, 11-17-97)

Sec. 58-84. Issuance or denial.

(a) The county manager may issue the applicant a license only when he finds that the applicant's facilities, equipment, and proposed operating methods are in compliance with this article and applicable rules of the department and that the applicant will perform solid waste collection in an efficient and sanitary manner. A condition of the license shall be that the licensee shall serve every person who contracts with him for solid waste collection in such a manner that the licensee does not cause the person to be in violation of this article.

(b) If the county manager denies an applicant a license, the applicant may appeal the county manager's decision to the board of county commissioners by giving written notice of appeal to the county manager within two days of receipt of the county manager's decision. After a hearing on the appeal, the board shall either affirm the denial or direct the county manager to issue the license.

(c) A license shall be valid for a period of one year from the date of issuance.
(Ord. of 6-15-92, § VII(D); Ord. No. 1997-14, 11-17-97)

Sec. 58-85. Notice; revocation; appeal.

When the county manager finds that a licensee has violated this article or the conditions of the license, the county manager shall give the licensee written notice of the violation and inform him that if another violation occurs within 30 days, or in the case of a continuing violation, if it is not corrected within ten days, the license will be revoked. If another violation occurs within the 30-day period, or, if the continuing violation is not corrected within ten days, the county manager shall give the licensee written notice that the license is revoked. Upon receipt of the notice of revocation, the licensee shall stop collecting, transporting, or disposing of solid waste. The county manager may reinstate a revoked license after the revocation has been in effect for 30 days if the director finds that the conditions causing the violation have been corrected. A licensee whose license has been revoked may appeal the revocation to the board of county commissioners by giving written notice of appeal to the county manager within ten days of receiving notice of revocation from the county manager. After a hearing on the appeal, the board shall either affirm the revocation or direct the county manager to reinstate the license.

(Ord. of 6-15-92, § VII(G); Ord. No. 1997-14, 11-17-97)

Sec. 58-86. Assignability.

No license issued pursuant to this division shall be assignable.

(Ord. of 6-15-92, § VII(H))

Sec. 58-87. Fee.

The license fee per vehicle operated or used within the county shall be payable by the first business day of each calendar year. The amount of such fee shall be set from time to time by the board of commissioners and is on the fee schedule which is available in the county offices.

(Ord. of 6-15-92, § VII(I))

Secs. 58-88—58-105. Reserved.

DIVISION 3. FRANCHISE*

Sec. 58-106. Required.

No person may engage in the business of solid waste collector unless he holds a franchise issued by the board of county commissioners authorizing him to collect, transport, and dispose of solid waste and describing the area for which the franchise is issued. A violation of this section is punishable as a misdemeanor.

(Ord. of 6-15-92, § VIII(A); Ord. No. 2021-32, § 11, 12-20-21)

Sec. 58-107. Business license a precondition.

No person may be issued a franchise by the board unless he holds a license to engage in the business of solid waste collection issued by the county manager.

(Ord. of 6-15-92, § VIII(B); Ord. No. 1997-14, 11-17-97)

Sec. 58-108. Application.

Applications for franchises shall be filed with the board through the county manager, on forms prescribed by the county manager and shall include a copy of the applicant's license application to the county manager and any other information the board deems pertinent.

(Ord. of 6-15-92, § VIII(C); Ord. No. 1997-14, 11-17-97)

Sec. 58-109. Granting.

The board may grant a franchise only upon finding that the applicant will render prompt, efficient, and continuing service to the area for which the franchise is granted and that the applicant has sufficient equipment and personnel to render service to all persons generating solid waste within the service area.

(Ord. of 6-15-92, § VIII(D))

*State law reference—Authority to grant franchises to collect or dispose solid waste, G.S. 153A-136(a).

Sec. 58-110. Area.

The board shall determine the area for which a franchise is granted.

(Ord. of 6-15-92, § VIII(E))

Sec. 58-111. Setting and approval of fees.

The board shall set or approve all residential fees charged by solid waste collectors before granting a franchise. In addition, the board may set or approve commercial, institutional, or industrial fees provided that prior to such action, the board shall have given all then-existing franchisees at least 30 days notice thereof, and the board shall have held a public hearing thereon. The board may classify fees according to whether residential, commercial, institutional, or industrial customers are served, so that reasonable compensation may be provided in accordance with the public interest. Fee schedules may be amended by the board from time to time.

(Ord. of 6-15-92, § VIII(F); Ord. No. 1997-14, 11-17-97)

Sec. 58-112. Term; renewal.

A franchise shall be for a term determined by the board and may be renewable.

(Ord. of 6-15-92, § VIII(G); Ord. No. 1997-21, 1-20-98)

Sec. 58-113. Fee schedule shown to prospective customer in advance; weekly removal.

A solid waste collector franchised under this division shall present to each prospective customer, in advance of any agreement with that customer, a schedule of his fees, as authorized by this division, to be charged. All solid waste shall be removed from the customer's premises at least once a week, provided the customer is no more than 30 days in arrears in payment of the required collection fees.

(Ord. of 6-15-92, § VIII(H))

Sec. 58-114. Temporary franchise.

The board may grant temporary franchises for the collection, transportation, or disposal of solid

waste to provide service in the event of abandonment of an existing franchise or for other cause. (Ord. of 6-15-92, § VIII(I))

- (4) Failure of the franchisee to comply with any provision of this division or applicable rules of the department. (Ord. of 6-15-92, § VIII(N))

Sec. 58-115. Franchises.

Notwithstanding any other provision of this division to the contrary, the board may grant nonexclusive or exclusive franchises for the collection and disposal of residential, commercial, industrial, institutional and construction and demolition wastes throughout the county. (Ord. of 6-15-92, § VIII(J); Ord. No. 1997-14, 11-17-97; Ord. No. 1997-21, 1-20-98)

Sec. 58-116. Disputes.

All disputes regarding the granting of a franchise and disagreements concerning franchised areas shall be determined by the board. (Ord. of 6-15-92, § VIII(K))

Sec. 58-117. Assignability.

No franchise shall be assignable. (Ord. of 6-15-92, § VIII(L))

Sec. 58-118. Abandonment.

A solid waste collector granted a franchise under this division shall give 30 days' written notice to the board before abandoning the franchise. (Ord. of 6-15-92, § VIII(M))

Sec. 58-119. Termination or suspension.

The board may terminate or suspend all or any portion of a franchise for any of the following reasons:

- (1) Loss of the franchisee's license to operate as a solid waste collector;
- (2) Failure of the franchisee to comply with the authorized fee schedules;
- (3) Failure of the franchisee to render prompt and effective service to persons within his service area;

Chapters 59–61

RESERVED

Chapter 62

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

Article I. In General

Secs. 62-1–62-35. Reserved.

Article II. Road Names and Address Display

Sec. 62-36. Purpose and intent of article.
Sec. 62-37. Definitions.
Sec. 62-38. Road names.
Sec. 62-39. Administration and application of article.
Sec. 62-40. Display of road address numbers.
Sec. 62-41. Enforcement of article.
Secs. 62-42–62-60. Reserved.

Article III. Parades

Sec. 62-61. Permit required.
Sec. 62-62. Carrying deadly weapons.

***Cross references**—Buildings and building regulations, ch. 14; cable television, ch. 20; public and private roads in subdivisions, § 66-75; traffic and vehicles, ch. 74.

State law reference—Roads and bridges, G.S. 153A-238.

ARTICLE I. IN GENERAL

Secs. 62-1—62-35. Reserved.

ARTICLE II. ROAD NAMES AND ADDRESS DISPLAY*

Sec. 62-36. Purpose and intent of article.

The purpose and intent of this article is to provide a uniform system of road addresses for all properties and buildings throughout the county and its municipalities, in order to facilitate provision of adequate public safety and emergency response services and to minimize difficulty in locating properties and buildings for public service agencies and the general public.

(Ord. of 2-3-92, § 1)

Sec. 62-37. Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Address coordinator means the official of the county planning, zoning and building inspection department charged with the administration of this article, except in the City of Concord, including his authorized agent or delegate.

Building means a structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, chattels, or equipment. When separated by division walls from the ground up without openings, each portion of such building may be deemed a separate building. For the purposes of this article, the term "building" may also include other man-made structures.

Driveway means a private way, beginning at the property line of a lot abutting a public road, private road, easement, or private right-of-way, giving access from that public road, recorded easement, recorded private road or right-of-way,

***Cross reference**—Naming subdivision roads, § 66-69.

State law reference—Naming roads and assigning street numbers in unincorporated areas in Cabarrus County, G.S. 153A-239.1.

and leading to a building, use or structure on that lot. A driveway may not serve more than a single lot unless it runs along a lot line shared by two lots.

Road means a public or private one-way or two-way road for ingress and/or egress. Such roads may be of various types including frontage roads, rear access roads, roads with cul-de-sacs, and dead-end roads. This definition includes secondary roads, but does not include driveways.

Road address means the combination of numbers and road name assigned by the county which uniquely identifies a particular building or lot.

(b) Except as specifically set forth in this section, the definitions in section 66-5 of the subdivision chapter of this Code shall govern the meaning of words and phrases in this article.

(Ord. of 2-3-92, § 2)

Cross reference—Definitions generally, § 1-2.

Sec. 62-38. Road names.

(a) The road names on file with the county planning, zoning and building inspection department are hereby declared the official names of these roads, unless changed by action of the county commissioners or the proper municipality. The planning, zoning and building inspection department is hereby authorized to determine the need for road name changes and to recommend such changes to the county commissioners.

(b) All roads in the county shall be identified by a sign showing the official name and block numbers. These road signs shall be placed at all intersections and shall identify both intersecting streets.

(c) A violation of this section is punishable as a misdemeanor.

(Ord. of 2-3-92, § 3; Ord. No. 2021-32, § 12, 12-20-21)

Sec. 62-39. Administration and application of article.

(a) The county planning, zoning and building inspection department will be responsible for the interpretation and administration of this article within county jurisdiction, including:

- (1) Assigning all numbers for properties and buildings.

- (2) Maintaining address records of each property and building.
- (3) Changing of existing addresses when necessary to facilitate sequential house numbers along a road.
- (4) Designating individual unit addresses within the multiple housing units in conformity with this article.
- (5) Coordinating with emergency service personnel to assist the public in complying with the requirements of this article.

(b) This article shall apply in all areas of the county not within a municipality or its extraterritorial jurisdiction, except for those municipalities that have contracted with the county for addressing services.
(Ord. of 2-3-92, § 4)

Sec. 62-40. Display of road address numbers.

(a) Road address numbers must be clearly displayed in accordance with U.S. postal requirements so that the location can be identified easily from the road.

(b) The official address number must be displayed on the front of a building, or at the entrance to a building, whichever is most clearly visible from the street or road during day and night.

(c) If a building is more than 100 feet from any road, the address number shall be displayed within a three-foot perimeter at the end of the driveway or easement nearest the road which provides access to the building.

(d) Numerals indicating the address number of a single-family dwelling shall be at least three inches in height and shall be posted and maintained so as to be legible from the road.

(e) Numerals for multiple dwelling units and nonresidential buildings shall be at least six inches in height and shall be placed on the front of the building facing the road or at the end of the building nearest the road.

(f) Mobile home lots shall have sequential address numbers throughout the park. Each lot shall have a separate address number assigned. The address number of each lot must be clearly displayed on the lot so as to be legible from the road, or it may be mounted on the mobile home unit, provided that it is removed if the home is transported to a new location.

(g) Numerals must be of contrasting color to the background.

(h) The county planning, zoning and building inspection department will have the right to authorize and approve alternate methods of displaying house numbers which meet the intent of this article when strict adherence to these standards cannot be reasonably met.

(i) A violation of this section is punishable as a misdemeanor.
(Ord. of 2-3-92, § 5; Ord. No. 2021-32, § 12, 12-20-21)

Sec. 62-41. Enforcement of article.

(a) No building permit shall be issued until an official house number has been assigned for a lot.

(b) No certificate of occupancy shall be issued by the county zoning administrator until such road address numbers are properly displayed.

(c) Owners or occupants of buildings already constructed which do not comply with this article will be notified and requested to meet these requirements within 60 days from the date of the notification. A warning notice will be issued after 60 days if the requirements have not been met. If the owner or occupant does not comply voluntarily with this article within 30 days of delivery of a warning notice by registered or certified mail or by hand delivery to the building in violation, enforcement action pursuant to G.S. 153A-123 may be initiated.
(Ord. of 2-3-92, § 6)

Secs. 62-42—62-60. Reserved.

ARTICLE III. PARADES***Sec. 62-61. Permit required.**

It shall be unlawful for any person to promote, sponsor, instigate, organize or take part in, any parade or procession in the unincorporated areas of the county involving more than three automobiles or 12 pedestrians, unless a permit for the parade or procession shall first have been secured from the county manager. Expressly excepted from the operation of this article shall be bona fide funeral processions, activities of fire departments, police departments, or other valid functions by governmental agencies. A violation of this section is punishable as a misdemeanor. (Ord. of 9-8-69; Ord. No. 2021-32, § 12, 12-20-21)

Sec. 62-62. Carrying deadly weapons.

No deadly weapons may be carried by anyone marching or riding in vehicles or otherwise participating in parades, other than law enforcement officers and members of the armed forces or national guards or armed forces reserves while on duty. Persons in attendance as spectators shall not carry dangerous weapons, except when permitted to carry them in the parade. A violation of this section is punishable as a misdemeanor. (Ord. of 11-13-79; Ord. No. 2021-32, § 12, 12-20-21)

***Cross references**—Amusements and entertainments, ch. 6; traffic and vehicles, ch. 74.

State law reference—Authority to regulate the use of highways by processions or assemblages, G.S. 20-169.

Chapters 63–65

RESERVED

Chapter 66

RESERVED*

***Editor's note**—Ord. No. 2004-13, adopted June 24, 2004, deleted Ch. 66 in its entirety. Former Ch. 66 pertained to subdivision regulations. For a complete history of former Ch. 66 see the Code Comparative Table.

Chapters 67–69

RESERVED

Chapter 70

TAXATION*

Article I. In General

Secs. 70-1—70-30. Reserved.

Article II. Room Occupancy and Tourism Development Tax

Sec. 70-31. Levied.

Sec. 70-32. Collection.

Sec. 70-33. Net proceeds distributed to county tourism authority.

Secs. 70-34—70-50. Reserved.

Article III. Tax on Gross Receipts from Retail Short-Term Lease or Rental of Motor Vehicles

Sec. 70-51. Tax on gross receipts derived from retail short-term motor vehicle leases or rentals.

Sec. 70-52. Administration.

Sec. 70-53. Payment of taxes and filing of returns.

Sec. 70-54. Penalties and interest.

Sec. 70-55. Misdemeanor for willful violation.

Sec. 70-56. Delegation of powers.

Sec. 70-57. Effective date.

Sec. 70-58. Definitions.

*State law reference—General power to impose taxes, G.S. 153A-146.

ARTICLE I. IN GENERAL

Secs. 70-1—70-30. Reserved.

ARTICLE II. ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX*

Sec. 70-31. Levied.

There is hereby imposed and levied within the county a six percent room occupancy and tourism development tax authorized by ratified Chapter 658 of the 1989 Session Laws (Regular Session, 1989), effective July 19, 1989. The tax hereby imposed and levied shall apply to the same extent and be subject to the same limitations as are set forth in said ratified chapter and section 70-31 of the Code of Ordinances of the county be and the same is hereby amended consistent herewith. (Res. of 8-21-89, § 1; Res. No. 1998-26, § 1, 8-17-98; Ord. No. 2008-02, 1-22-08)

Sec. 70-32. Collection.

Collection of the tax by the county finance officer, and liability therefor, shall begin and continue on and after the first day of October, 1998. (Res. of 8-21-89, § 2; Res. No. 1998-26, § 1, 8-17-98)

Sec. 70-33. Net proceeds distributed to county tourism authority.

The net proceeds of the tax levied herein, i.e. the gross proceeds less five percent of the amount collected, shall be distributed by the county finance officer to the county tourism authority, or otherwise, on a monthly basis as prescribed by said enabling legislation. (Res. of 8-21-89, § 3; Res. No. 1998-26, § 1, 8-17-98)

Secs. 70-34—70-50. Reserved.

***Special acts reference**—Room occupancy and tourism development tax and the establishment of a tourism authority, pt. I, art. IV.

ARTICLE III. TAX ON GROSS RECEIPTS FROM RETAIL SHORT-TERM LEASE OR RENTAL OF MOTOR VEHICLES†

Sec. 70-51. Tax on gross receipts derived from retail short-term motor vehicle leases or rentals.

The county hereby imposes and levies a tax of one and one-half 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. 153A-156. (Ord. No. 2000-04, § 1, 11-20-00)

Sec. 70-52. Administration.

The county through its tax administrator will administer and collect from operators of leasing and rental entities the tax levied hereby. The tax administrator may promulgate additional lawful rules and regulations necessary for implementation and collection of the tax. (Ord. No. 2000-04, § 2, 11-20-00)

Sec. 70-53. Payment of taxes and filing of returns.

The taxes levied hereby are due and payable to the county monthly, 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. If the last day for payment of taxes or filing of returns, falls on a holiday, a Sunday, or a Saturday, the deadline shall be extended until the next business day. If payment or filing of a return is by mail, the county will honor a postmark date affixed by the United States Postal Service. This date must be legible; otherwise the payment or return is treated as made when received in the collector's office. The county shall design, print, and furnish to all such entities the necessary forms for filing re-

†**Editor's note**—Ord. No. 2000-04, §§ 1—8, adopted Nov. 20, 2000, did not specifically amend this Code. Hence, inclusion of said ordinance provisions as §§ 70-51—70-58 was at the discretion of the editor to read as herein set out. See the Code Comparative Table.

State law reference—Authority to levy a local tax on gross receipts derived from short-term leases or rentals, G.S. 153A-156.

turns 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 county. A return filed for this purpose is not a public record as defined by section 132-1 of the North Carolina General Statutes and may not be disclosed except as provided by law.

(Ord. No. 2000-04, § 4, 11-20-00)

Sec. 70-54. Penalties and interest.

In case of failure or refusal to file a return when due, the penalty is five percent of the tax if the delay is not more than 30 days plus five percent for each additional month or fraction thereof, not to exceed 25 percent or \$5.00, whichever is greater, G.S. 105-236(3). The penalty for failure to pay a tax when due is ten percent of the tax with a minimum of \$5.00, G.S. 105-236(4). The penalty for a bad check is ten percent of the amount of the check, with a minimum of \$1.00 and a maximum of \$1,000.00, G.S. 105-236(1).

G.S. 153A-156(f) and G.S. 160A-215.1(f) provide for interest on delinquent taxes at a rate of 0.75 percent per month, or nine percent per year.

Penalty provisions of article 9 of Chapter 105 are in addition to the enforcement remedies of levy and attachment and garnishment provided in G.S. 153A-147 and G.S. 160A-207.

The county board of equalization and review, for good cause shown, may consider appeals and adjust any penalty or additional tax imposed hereunder. The county tax administrator, for good cause shown, may consider appeals and adjust any penalty or additional tax imposed hereunder in an amount not to exceed \$200.00.

(Ord. No. 2000-04, § 4, 11-20-00)

Sec. 70-55. 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, in addition to the penalties provide by law and herein, be

guilty of a misdemeanor punishable as provided by law. The taxpayer's records will be subject to an audit by the county.

(Ord. No. 2000-04, § 5, 11-20-00)

Sec. 70-56. Delegation of powers.

The county tax administrator shall exercise the powers authorized to the county by G.S. 153A-156(f) with the county board of equalization and review exercising the powers of the tax review board.

(Ord. No. 2000-04, § 6, 11-20-00)

Sec. 70-57. Effective date.

This article shall become effective January 1, 2001.

(Ord. No. 2000-04, § 7, 11-20-00)

Sec. 70-58. Definitions.

The following definitions shall apply to this article:

Customer shall mean any person that leases or rents a vehicle on a short-term lease or rental basis.

General Statutes shall refer to the North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.

Gross receipts shall mean the total lease or rental price charged to a customer for the short-term lease or rental at retail of vehicles, excluding sales taxes and excluding the taxes imposed by this article.

Lease or rental shall mean a transfer, for consideration, of the use but not the ownership of a vehicle to another for a period of time.

Person shall mean any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

Retail shall mean the lease or rental of vehicles for any use or purpose other than for re-leasing or subleasing by the customer.

Short-term lease or rental shall mean any vehicle lease or rental, whether written or verbal, which is made to the same person for a period of less than 365 continuous days.

Tax administrator shall mean the Cabarrus County Tax Administrator.

Taxpayer shall mean any person liable to Cabarrus County for the collection, reporting and payment of the taxes imposed by this article.

Vehicle shall mean any of the following:

- (1) A motor vehicle of the private passenger type, including a passenger van, minivan, or sport utility vehicle.
- (2) A motor vehicle of the cargo type, including cargo van, pick up truck, or truck with a gross vehicle weight of 26,000 pounds or less used predominately in the transportation of property for other than commercial freight and that does not require the operator to possess a commercial drivers license.
- (3) A trailer or semitrailer with a gross vehicle weight of 6,000 pounds or less.

(Ord. No. 2000-04, § 8, 11-20-00)

Chapters 71–73

RESERVED

Chapter 74

TRAFFIC AND VEHICLES*

Article I. In General

Secs. 74-1–74-30. Reserved.

Article II. Parking, Stopping and Standing

Division 1. Generally

Secs. 74-31–74-50. Reserved.

Division 2. County Parking Lots

- Sec. 74-51. Definitions.
- Sec. 74-52. Area of application of division.
- Sec. 74-53. Penalty for violation of division.
- Sec. 74-54. Categories of parking.

***Cross references**—First responder program, § 26-51 et seq.; operation of vehicles on raceways or drag strips, § 46-3; vehicles in parks, § 50-13; solid waste collectors, § 58-61 et seq.; streets, sidewalks and other public places, ch. 62; parades, § 62-61 et seq.; ambulances, § 82-26 et seq.

State law reference—Powers of local authorities, G.S. 20-169.

ARTICLE I. IN GENERAL**Secs. 74-1–74-30. Reserved.****ARTICLE II. PARKING, STOPPING AND STANDING****DIVISION 1. GENERALLY****Secs. 74-31–74-50. Reserved.****DIVISION 2. COUNTY PARKING LOTS*****Sec. 74-51. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Parking means the stopping or standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

Parking space means a space sufficient in size to accommodate a standard automobile, which space is designated by appropriate lines and appropriate markings or signs.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a street or highway.

(Ord. of 11-6-89, § 1; Ord. of 2-18-91(3), § 1)

Cross reference—Definitions generally, § 1-2.

Sec. 74-52. Area of application of division.

This division shall apply to the county-owned property located in the block bounded by: Union Street, south; Means Avenue, southeast; Church Street, southeast; and Corban Avenue, southeast, the courthouse lot, currently consisting of 77 parking spaces. Parking any vehicle on the courthouse lot shall be unlawful unless permitted by the provisions of this division.

(Ord. of 11-6-89, § 2; Ord. of 2-18-91(3), § 2)

*State law reference—Regulation of parking on county property, G.S. 153A-170.

Sec. 74-53. Penalty for violation of division.

(a) Obedience to this division is chargeable to the person actually operating or in control of the vehicle at the time it is parked on the courthouse lot, provided that proof of ownership of any vehicle found parked in violation of this division shall be prima facie evidence that the owner parked the vehicle.

(b) The county sheriff, or any of his deputies, or any county employee authorized by the county manager, shall cause to be attached to any vehicle parked in violation of the provisions of this division a notice to the owner or operator thereof to report to the sheriff's department in regard to such violation.

(c) Each such owner or operator may, within 24 hours of the time when such notice was attached to such vehicle, submit to the violation and pay, as a penalty in full satisfaction of such violation, the sum of \$5.00. The failure of such owner or operator to make such payment of the amount within 24 hours shall render such owner or operator subject to punishment for a misdemeanor.

(d) The violation of any of the provisions of this division shall be a misdemeanor and punishable in accordance with section 1-7.

(e) Any vehicle parked in violation of this division may be removed from the property by the county or any agent of the county to a storage area or garage. If a vehicle is so removed, the owner, as a condition of regaining possession of the vehicle, shall be required to pay to the county all reasonable costs incidental to the removal and storage of the vehicle.

(f) The deputy sheriff on duty at the county sheriff's department shall accept designated penalties and issue receipts. The deputy sheriff or any employee in the county manager's office may accept the costs to the county incidental to the removal and storage of the vehicle.

(Ord. of 11-6-89, § 4; Ord. of 2-18-91(3), § 4)

Sec. 74-54. Categories of parking.

Parking shall be permitted on the courthouse lot only in parking spaces and only as follows:

- (1) *Public parking.* No parking spaces are designated as public parking spaces.

- (2) *Parking spaces for court officials.* Six parking spaces shall be reserved for the exclusive use of court officials of the general court of justice, more specifically reserved as follows: Two parking spaces for judges of the superior and district courts; and one space each for the district attorney, the clerk of superior court, the court reporter, and the magistrate's office. The location of each of these parking spaces shall be determined by the county manager, and these spaces shall be designated by sign or other markings.
- (3) *Sheriff's department and jail vehicles.* Fifty-nine parking spaces are hereby designated as parking spaces for vehicles owned or operated by the sheriff, sheriff's department or jail employees or county-owned vehicles operated by the sheriff's department officers. Of these spaces, one space shall be reserved for each of the following officers: the sheriff, the chief deputy, the captain (operations), and the captain (services). The location of these parking spaces shall be determined by the county manager, and these spaces shall be designated by sign or other markings.
- (4) *Law enforcement vehicles parking.* Eleven parking spaces are hereby designated as parking spaces for law enforcement vehicles. The location of these parking spaces shall be determined by the county manager, and these spaces shall be designated by sign or other marking. Only official, government-owned law enforcement vehicles may be parked in the spaces designated for law enforcement vehicles under the provisions of this subsection.
- (5) *Parking space for county maintenance truck.* One parking space is hereby assigned to the county maintenance department. The location of this parking space shall be determined by the county manager, and this space shall be designated by sign or other markings.
- (6) *Repair and emergency vehicles.* Vehicles being used during repair or construction work, when it is necessary for them to be

parked in a space other than a parking space, and emergency vehicles being used for emergency purposes are hereby exempted from this division.

(Ord. of 11-6-89, § 3; Ord. of 2-18-91(3), § 3)

Chapters 75–77

RESERVED

Chapter 78

UTILITIES*

Article I. In General

Secs. 78-1—78-35. Reserved.

Article II. Surface Discharge Sewage Treatment Plants

Sec. 78-36. Adoption of state regulations.
Sec. 78-37. General requirements of article.
Secs. 78-38—78-60. Reserved.

Article III. Sewer Use

Sec. 78-61. General provisions.
Sec. 78-62. General sewer use requirements.
Sec. 78-63. Fees.
Sec. 78-64. Wastewater discharge permit application and issuance.
Sec. 78-65. Reporting requirements.
Sec. 78-66. Compliance monitoring.
Sec. 78-67. Confidential information.
Sec. 78-68. Enforcement.
Sec. 78-69. Annual publication of significant noncompliance.
Sec. 78-70. Adjudicatory hearing.
Sec. 78-71. Affirmative defenses to discharge violations.
Sec. 78-72. Reconnection of utility service after termination.
Sec. 78-73. Tampering with, damaging sewerage works.
Sec. 78-74. Falsifying information; damage to monitoring equipment.
Sec. 78-75. New construction.
Sec. 78-76. Use of public sewers.
Sec. 78-77. Private sewage disposal.
Sec. 78-78. Outside connections.
Sec. 78-79. Special agreements.
Sec. 78-80. Severability.
Sec. 78-81. Conflict.
Sec. 78-82. Public notification of untreated waste and wastewater discharges.

***Cross references**—Buildings and building regulations, ch. 14; manufactured homes and trailers, ch. 42; water and sewer systems in subdivisions, § 66-74.

State law references—Authority to operate public enterprises, G.S. 153A-275; authority to fix and enforce rates, G.S. 153A-277; special provisions for water and sewer services, G.S. 153A-283 et seq.

ARTICLE I. IN GENERAL

Secs. 78-1—78-35. Reserved.

ARTICLE II. SURFACE DISCHARGE SEWAGE TREATMENT PLANTS

Sec. 78-36. Adoption of state regulations.

The board of commissioners, having considered the necessity of an ordinance regulating the discharge of wastewater into surface waters of the county and having found that the adoption of such an ordinance is in the best interest of the general health and welfare of the county does hereby adopt the provisions of this article.

Sec. 78-37. General requirements of article.

(a) *Discharge, authorization and improvement permits.* No person shall commence the construction or relocation of any residence, place of business, or place of public assembly, nor shall any person locate, relocate or cause to be located or to be relocated any residence other than one exhibited for sale or stored for the purpose of later sale on a site in an area not served by a public system of sewage treatment without first obtaining a discharge permit and an authorization permit from the state department of environment, health, and natural resources or an improvements permit from the county health department. Copies of discharge authorization permits shall be filed with the health department prior to the issuance of a building permit and shall include the location of the surface discharge system and the exact location of the point of wastewater discharge.

(b) *Monitoring of treatment plant effluent.* The effluent of all package treatment plants and single-family surface discharge systems shall be monitored by the county health department for environmental impact on surface waters at a minimum of once per year. Systems out of compliance with effluent limitations established with the state administrative code shall be reported to the state department of environment, health, and natural resources for enforcement action. In addition, these systems shall be monitored by the county health department at least twice within a six-month period after the deadline imposed for com-

pliance by the department of natural resources and community development to ensure that compliance has been obtained. If, at either of these two monitoring inspections, the system is found to be out of compliance with the applicable requirements cited above, then the party in violation thereof shall be punished as provided in G.S. 130A-25.

(c) *Penalty for violation of article.* A violation of this article shall subject the party in violation to punishment as provided in G.S. 130A-1 et seq. (Ord. of 7-16-84, § I)

Secs. 78-38—78-60. Reserved.

ARTICLE III. SEWER USE*

Sec. 78-61. General provisions.

1. *Purpose and policy.* This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the water and sewer authority of Cabarrus County, hereafter referred to as WSACC, and enables WSACC to comply with all applicable state and federal laws including the Clean Water Act (33 United States Code 1251 et seq.) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this article are:

- (a) To prevent the introduction of pollutants and wastewater discharges into the wastewater treatment system which will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants and wastewater discharges into the wastewater treatment system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;

***Editor's note**—Ord. No. 2013-19, adopted August 19, 2013, amended art. III in its entirety to read as herein set out. Former art. III consisted of §§ 78-61—78-81, pertained to the same subject matter, and derived from Ord. No. 2007-14, adopted June 18, 2007.

- (c) To promote reuse and recycling of industrial wastewater and sludges from the wastewater treatment system;
- (d) To protect both WSACC's personnel who may be affected by sewage, effluent, and sludge in the course of their employment as well as protecting the general public;
- (e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the wastewater treatment plant; and
- (f) To ensure that WSACC complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the wastewater treatment system is subject.

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

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

By discharging wastewater into the WSACC wastewater system, industrial users located within or outside the WSACC service area agree to comply with the terms and conditions established in this article, as well as any permits, enforcement actions, or orders issued hereunder. This

includes all industrial users discharging in the wastewater collection system owned by the City of Charlotte.

2. *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:
 - (1) *Act or the Act.* The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
 - (2) *Approval authority.* The director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.
 - (3) *Authorized representative of the industrial user:*
 - (i) If the industrial user is a corporation, authorized representative shall mean:
 - a. The president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - b. The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental com-

- pliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (ii) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
 - (iii) If the industrial user is a federal, state or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility or their designee.
 - (iv) The individuals described in paragraphs (i)—(iii) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to WSACC.
 - (v) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to the executive director prior to or together with any reports to be signed by an authorized representative.
- (4) *Biochemical oxygen demand (BOD), five-day (BOD₅)*. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius; usually expressed as a concentration (milligrams per liter (mg/l)).
 - (5) *Boundaries of WSACC or service area*. The service area includes Cabarrus County and that portion of the City of Kannapolis located within Rowan County.
 - (6) *Building sewer*. A sewer conveying wastewater from the premises of a user to the POTW.
 - (7) *Bypass*. The intentional diversion of waste streams from any portion of a user's treatment facility.
 - (8) *Cabarrus Health Alliance*. The public health authority of Cabarrus County d.b.a. Cabarrus Health Alliance.
 - (9) *Categorical standard or national categorical pretreatment standards*. Any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405—471.
 - (10) *Chemical toilets*. The structures used to collect human wastes at mass gatherings, construction sites and labor work camps.

- (11) *Chemical oxygen demand (COD)*. The quantity of equivalent oxygen utilized in the chemical oxidation of organic matter as measured by standard laboratory methods as set out in this article, expressed in parts per million.
- (12) *Color*. The true color due to substances in solution which cause any variation in the hue of the receiving stream and is expressed in parts per million.
- (13) *Control authority*. Refers to the POTW organization if the POTW organization's pretreatment program approval has not been withdrawn.
- (14) *Cooling water*. The water discharged from any use such as air conditioning, cooling or refrigeration during which the only pollutant added to the water is heat.
- (15) *Domestic wastewater/sewage*. Liquid wastes from the noncommercial preparation, cooking and handling of food; or containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions.
- (16) *Environmental Protection Agency (EPA)*. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.
- (17) *Executive director*. The chief administrative officer of the control authority or his/her delegate.
- (18) *Grab sample*. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
- (19) *Hearing authority*. The executive director, WSACC Attorney, and facilities director or duly appointed deputies, agents or representatives thereof.
- (20) *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.
- (21) *Indirect discharge*. The discharge or the introduction from any non-domestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).
- (22) *Industrial user or user*. Any person which is a source of indirect discharge.
- (23) *Industrial waste*. Non-domestic wastewater, including, but not limited to, process or operational wastewater, groundwater remediation discharges, contaminated stormwater or surface water remediation discharges, and any other non-domestic liquid waste from industrial and commercial establishments.
- (24) *Infiltration*. The water entering a sewer system including sewer service connections from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.
- (25) *Inflow*. The water discharged into a sewer system including service connections from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, stormwaters, surface runoff, street

wash waters or drainage. Inflow does not include, and is distinguished from, infiltration.

- (26) *Interference.* The inhibition, or disruption of the POTW collection system, its treatment processes and/or operations, and/or its sludge processes, use, or disposal, which causes or contributes to a violation of any requirement of the control authority'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. 6901, et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent than 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.
- (27) *Local permit.* A permit issued by WSACC allowing wastewater discharge into the POTW pursuant to requirements in this article for users that do not meet the criteria of an SIU or propose to discharge pump and haul wastes.
- (28) *Maximum daily discharge.* The total concentration or mass of a pollutant discharged from all production periods during a twenty-four-hour calendar day.
- (29) *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.
- (30) *National Prohibitive Discharge Standard or Prohibitive Discharge Standard or Prohibited Discharges.* Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 78-62.1 of this article and are developed under the authority of [Section] 307(b) of the Act and 40 CFR, Section 403.5.
- (31) *New source.*
- (i) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with Section 307(c), provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility

is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

- (ii) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section 30(i)b. or 30(i)c. above but otherwise alters, replaces, or adds to existing process or production equipment.
- (iii) 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 replacement, assembly, or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to pur-

chase 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.

- (32) *Nitrogen (NH₃) as ammonia.* The initial product in the decomposition of nitrogenous organic matter as measured by using standard laboratory methods, as set out in this article, expressed in mg/l.
- (33) *Non-contact cooling water or wastewater.* Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (34) *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.
- (35) *Non-domestic wastewater/sewage.* Liquid wastes resulting from the processes employed in industrial, manufacturing, trade or business establishments, as distinct from domestic wastes.
- (36) *NPDES or National Pollutant Discharge Elimination System.* 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.
- (37) *Pass through.* A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation, including an increase in the magnitude or

- duration of a violation, of the control authority's collection system, or non-discharge permit or a downstream water quality standard even if not included in the permit.
- (38) *Person*. Any individual, firm, company, partnership, co-partnership, corporation, association, joint stock company, trust, estate, governmental entity, limited liability company or partnership, or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.
- (39) *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. A pH value of 7.0 is neutral, above 7.0 is alkaline and below 7.0 is acid.
- (40) *Pollutant*. Any "waste" as defined in G.S. 143-213(13) 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).
- (41) *Pollutant of concern (POC)*. Any pollutant which might reasonably be expected to be discharged to the POTW in quantities which could pass through or interfere with the POTW, contaminate the sludge, or jeopardize any POTW worker's health and/or safety.
- (42) *POTW treatment plant*. The portion of the POTW designed to provide treatment to wastewater.
- (43) *Pretreatment*. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW collection system and/or treatment plant. The reduction or alteration may be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR Part 403.6(d).
- (44) *Pretreatment program*. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by WSACC in compliance with 40 CFR, 403.8 and approved by the state as authorized by G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.
- (45) *Pretreatment requirements*. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
- (46) *Pretreatment standards*. Prohibited discharge standards, categorical pretreatment standards, or local limits which applies to an industrial user.
- (47) *Process wastewater*. Any water which, during manufacturing or processing, comes into direct contact with or results from the production of or use of any raw material, intermediate product, finished product, byproduct, or waste product.
- (48) *Properly shredded garbage*. The wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- (49) *Publicly owned treatment works (POTW)*. A treatment works (or a

combination thereof), as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by WSACC. 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 which convey wastewater to the POTW treatment plant, plant and sewer maintenance personnel, and microorganisms associated with the treatment process itself. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside WSACC who are, by contract or agreement with WSACC, or in any other way, users of WSACC's POTW.

- (50) *Pump and haul waste.* Excess sludge from domestic septic tank systems, biological treatment plants with an NPDES permit and/or wastewater from portable sanitary privies, including domestic sewage and/or industrial waste.
- (51) *Receiving water.* The specific waters of the state receiving the effluent discharged from the POTW treatment plant.
- (52) *Sanitary sewer.* A sewer intended to receive domestic sewage and non-domestic waste, except that of type expressly prohibited by this article, without the admixture of surface water and stormwater.
- (53) *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.

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

- versely affecting the POTW's operation or for violating any pretreatment standards or requirement, the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for limiting the POTW's sludge disposal options, and thus is not a significant industrial user.
- (F) Subject to division approval under 15A NCAC 02H.0907(b), the control authority may determine that an industrial user meeting the criteria in paragraph (C) above meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a non-significant categorical industrial user.
- (G) Subject to division approval under 15A NCAC 02H.0907(b), the control authority may determine that an industrial user meeting the criteria in paragraph (A), (B) or (C) above meets the requirements of 40 CFR Part 403.12(e)(3) and thus is a middle tier significant industrial user. Sampling and inspection requirements may be cut in half as per 40 CFR Parts 403.8 (f)(2)(v)(C) and 403.12(e)(3).
- (55) *Significant noncompliance* or *SNC*. The status or noncompliance of a significant industrial user when one or more of the following criteria are met. Additionally, any industrial user which meets the criteria in subparagraph (b)(55), Parts (C), (D), or (H) shall also be SNC.
- (A) 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);
- (B) 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 or the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH);
- (C) Any other violation of a pretreatment standard or requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health or POTW personnel or the general public);
- (D) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the control authority's or the POTW's, if different from the control authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(13) and section 78-68.1(e) of this SUO to halt or prevent such a discharge;
- (E) Violations of compliance schedule milestones, contained in a

- pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- (F) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 45 days from the due date.
- (G) Failure to accurately report non-compliance.
- (H) 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.
- (56) *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 78-62.1 of this article.
- (57) *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.
- (58) *State.* The State of North Carolina, Department of Environment and Natural Resources, Division of Environmental Management, or any duly authorized representative thereof.
- (59) *Stormwater.* Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (60) *Suspended solids or total 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 approved laboratory filtering methods.
- (61) *Toxic pollutant.* Any pollutant or combination of pollutants listed as toxic in the regulations promulgated by the administrator of the EPA under the provisions of the Clean Water Act, section 307(a), or other acts.
- (62) *Unpolluted water.* Water not containing any pollutants limited or prohibited by the effluent standards in effect, or water whose discharge will not cause any violation of receiving water quality standards.
- (63) *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 pretreatment facilities, inadequate pretreatment facilities, lack of preventive maintenance, or careless or improper operation.
- (64) *User.* Any person who contributes, causes or permits the contribution of wastewater into the POTW or proposes such a contribution, including persons who contribute such wastes from mobile sources.
- (65) *Wastewater.* The liquid and water-carried, industrial and/or domestic wastes, from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities, and/or institutions together with any groundwater, surface water, and/or

- stormwater that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
- (66) *Wastewater discharge permit.* The permit required by Section 78-64.2 of this article.
- (67) *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.
- (68) *WSACC.* The Water and Sewer Authority of Cabarrus County, the executive director or his designee.
- (b) This article is gender neutral and the masculine gender shall include the feminine and vice-versa.
- (c) Shall is mandatory; may is permissive or discretionary.
- (d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.
- (e) The following abbreviations when used in this article, shall have the designated meanings:
- (1) BOD - Biochemical Oxygen Demand
 - (2) CFR - Code of Federal Regulations
 - (3) COD - Chemical Oxygen Demand
 - (4) DENR - Department of Environment and Natural Resources
 - (5) EPA - Environmental Protection Agency
 - (6) gpd - Gallons per day
 - (7) mgd - Million gallons per day
 - (8) mg/l - Milligrams per liter
 - (9) NCAC - North Carolina Administrative Code
 - (10) N.C.G.S. - North Carolina General Statutes
 - (11) NH₃ - Nitrogen Ammonia
 - (12) NOV - Notice of Violation
 - (13) NPDES - National Pollution Discharge Elimination System
 - (14) O & M - Operation and Maintenance
 - (15) POTW - Publicly Owned Treatment Works
 - (16) RCRA - Resource Conservation and Recovery Act
 - (17) SIC - Standard Industrial Classification
 - (18) SIU - Significant Industrial User
 - (19) SWDA - Solid Waste Disposal Act, 42 U.S.C. 6701, et seq.
 - (20) TSS - Total Suspended Solids
 - (21) U.S.C. - United States Code
- (Ord. No. 2013-19, § 1, 8-19-13)
- Sec. 78-62. General sewer use requirements.**
1. *Prohibited discharge standards.*
 - (a) *General prohibitions.* No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of the POTW whether or not the user is a SIU or subject to any national, state, or local pretreatment standards or requirements.
 - (b) *Specific prohibitions.* No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
 - (1) *Explosive mixtures.* Any pollutant(s) which, either alone or by interaction with another pollutant(s), creates a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.

- (2) *Solid or viscous substances.* Solid or viscous substances in amounts which will cause obstruction of the POTW resulting in interference but in no case solids greater than one-half-inch in any dimension. Prohibited materials include, but are not limited to: grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, tar, plastic, asphalt residues, residues from refining or processing of fuel or lubricating oil, ground paper products, material from grinders, residues or solids from a pretreatment facility, and similar substances.
- (3) *Petroleum, cutting or mineral oils.* Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (4) *Corrosive wastes.* Any wastewater having a pH less than 5.0 or more than 9.0 or wastewater having any other corrosive property capable of causing damage to the POTW(s) or equipment.
- (5) *POTW interference.* Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc.), released in a discharge at a flow volume, flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, to cause interference with the POTW.
- (6) *Temperature limit.* 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 which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).
- (7) *Toxic gases.* Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) *Truck or hauled pollutants.* Any truck or hauled pollutants, except at discharge points designated by the executive director in accordance with section 78-62.9 of this article.
- (9) *Oils and grease.* Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l unless authorized by the executive director.
- (10) *Noxious materials.* Any noxious or malodorous solids, liquids or gases, 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.
- (11) *Improperly shredded garbage.* Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewers, with no particle greater than one-half inch in any dimension.
- (12) *Radioactive wastes.* Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the executive director in compliance with applicable state or federal regulations.
- (13) *Toxic substances.* Any wastewater discharge which alone or in combination with other wastewater causes the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 28.0200.

- (14) *Unpolluted waters.* Stormwater, surface water, ground water, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the executive director. No person shall connect or cause to be connected to the sanitary sewer system any pipe or conduit which will allow discharge from any inflow sources listed in this section into the sanitary sewer system.
- (15) *Cloth or textile waste.* Any clothing rags, textile remnants or waste, cloth, scraps, except fibers of scrap that will pass through a one-fourth-inch mesh screen or its equivalent in screening ability, provided such fibers do not interfere with the normal operation of the treatment plant.
- (16) *Fixed solids limit.* Any waters or wastes in which the total fixed solids exceed 1,500 mg/l.
- (17) *Excessive discharge rate and/or concentration.* Any pollutant released in a discharge at a flow volume, flow rate and/or pollutant concentration, which will, either singly or by interaction with other pollutants, cause the POTW to violate any of its NPDES and/or state disposal system permits or the receiving water quality standards.
- (18) *Excessive residues.* Any pollutant released in a discharge at a flow volume, flow rate and/or pollutant concentration, which either singly or by interaction with other pollutants, 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 recycling 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 applicable local, state or federal sludge use or disposal guidelines.
- (19) *Heavy metals.* Any waters or wastes containing amounts of arsenic, cadmium, chromium, copper, lead, nickel, zinc, or other heavy metals which exceed national categorical standards, local limits, interfere with treatment efficiency or sludge disposal criteria or cause the POTW to exceed NPDES permit limitations.
- (20) *Poisons.* Any waters or wastes containing cyanide or other such poisonous substances.
- (21) *Interfering solids.* Any waters or wastes containing suspended solids of such character and quality that unusual attention or expense is required to handle such materials at the POTW.
- (22) *Color.* Any wastewater which imparts color and passes through the POTW treatment plant, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent thereby violating any state or federal regulations pertaining to the effluent from the plant or the receiving water.
- (23) *Pretreatment sludges.* Any removed substances to include, but not be limited to, sludges, screenings or other residues from the pretreatment of wastewater.
- (24) *Medical wastes.* Any medical wastes, except as specifically authorized by the executive director in a wastewater discharge permit.
- (25) *Ammonia compounds.* Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the wastewater treatment system.

- (26) *Hazardous waste.* Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the executive director.
- (27) *Human or animal parts.* Recognizable portions of the human or animal anatomy.
- (28) *Toxicity.* Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (29) *Excessive foaming.* Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the wastewater treatment system.
- (30) *Explosive limit.* At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.
- (31) *Discharge of untreated wastewater.* Within the boundaries of WSACC, it shall be unlawful for any person to discharge to any outlet, other than a sanitary sewer, any domestic or industrial waste except where suitable treatment has been provided in accordance with provisions of this article or where an appropriate NPDES permit has been obtained.
- (32) *Alkyl Phenol Ethoxylates (APEs).* Any compounds containing APEs shall be prohibited due to the inhibiting and toxic effect of APEs on the biological treatment at the POTW. Linear alcohol ethoxylates, a more readily biodegradable surfactant, may be substituted for APEs.
- (33) *Equipment damage.* Any wastewater containing chemicals, either singly or by interaction with other chem-

icals, to cause operational problems or damage to the POTW process equipment and/or collection system.

- (c) Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.
- (d) When the executive 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 the POTW operation or pass through, the executive director shall:
 - (1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with section 78-68.1; and
 - (2) Take appropriate actions in accordance with section 78-64 for such user to protect the POTW from interference or pass through.

2. *National Categorical Pretreatment Standards.* Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405—471 and incorporated herein.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the executive director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the executive director shall impose an alternate limit using the combined waste stream 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.
- (c) A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.7.

3. *Industrial waste survey and local limits.* An industrial waste survey is required prior to a user discharging wastewater containing in excess of the following average discharge limits.

BOD - 300 mg/l
 COD - 675 mg/l
 TSS - 250 mg/l
 NH₃ - 15 mg/l
 Aluminum - 1.80 mg/l
 Arsenic - 0.003 mg/l
 Cadmium - 0.003 mg/l
 Copper - 0.090 mg/l
 Chromium - 0.020 mg/l
 Cyanide - 0.015 mg/l
 Lead - 0.049 mg/l
 Mercury - 0.0003 mg/l
 Nickel - 0.021 mg/l
 Silver - 0.005 mg/l
 Zinc - 0.176 mg/l
 Total oil and grease - 100 mg/l

Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern

shall be included in wastewater permits. The executive director may impose mass limits in addition to, or in place of, concentration-based limits.

4. *Rule of stringency.* The most stringent limitations and requirements on pretreatment of discharges to a POTW in effect, whether imposed by WSACC, state or federal government, shall apply. The user will be required to implement such pretreatment as necessary to comply with the applicable standards.

5. *Right of revision.* WSACC reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in section 78-61.1 of this article or the general and specific prohibitions in section 78-62.1 of this article, as is allowed by 40 CFR 403.4.

6. *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 WSACC or state.

7. *Pretreatment of wastewater.*

- (a) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this article, and wastewater permits issued under section 78-64.2 of this article and shall achieve compliance with all national categorical pretreatment standards, local limits and the prohibitions set out in section 78-62.1 of the ordinance within the time limitations as specified by the EPA, the state, or the executive director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Users shall not discharge wastewater requiring treatment either directly or indirectly to WSACC's wastewater treatment system without first notifying and obtaining approval from the executive director. De-

tailed plans for the pretreatment facilities signed and sealed by a North Carolina Professional Engineer shall be delivered to and received by WSACC for review and an "authorization to construct" shall be issued by WSACC prior to construction of the pretreatment facilities. The user shall be solely responsible for the design, construction and operation of such pretreatment facilities as may be necessary to comply with the provisions of this article. The review of such plans and operating procedures and the issuance of the "authorization to construct" will in no way relieve the user from the responsibility of modifying the facilities as necessary to produce an effluent acceptable to WSACC under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the executive director prior to the user's initiation of the changes.

(b) *Additional pretreatment measures.*

- (1) Whenever deemed necessary, the executive 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 waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article. Suspension of wastewater treatment service shall be subject to section 78-68.1(f).
- (2) Grease, oil and sand interceptors shall be provided when, in the opinion of the executive director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All restaurants and slaughtering op-

erations shall have grease interceptors or grease removal facilities. All interception units shall be of type and capacity approved by the executive director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

- (3) *Flow equalization.* The executive director may require any person discharging into the POTW to install and maintain, on the property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization. Such facility shall have a capacity of at least 80 percent of the normal volume of one 24-hour production period of wastewater and outlet to the sewer controlled by a waterworks-type controller, or other approved device, the setting of which shall be directed by the executive director.
- (4) *Control manhole.* Any person discharging non-domestic wastewater into WSACC's sanitary sewer shall be constructed downstream from any treatment, storage or other approved system at a suitable and satisfactory location and built in a manner approved by the executive director or his designee.
- (5) *Measuring device.* Where a storage tank is not required, the control manhole shall be equipped with a permanent type volume measuring device such as a nozzle, or other device approved by the executive director. The manhole shall be installed by the person discharging the wastewater at his own expense and shall be maintained by him so as to be safe, accessible and in proper operating condition at all times.

- (6) *Interrupted service note.* Notice shall be given to the executive director or his designee when normal industry will be interrupted for 72 hours or longer and wastewater will not be available for discharge, or when a change of process is contemplated or malfunction of the treatment facility occurs or is anticipated which will alter demands on the wastewater treatment facilities. Normal operations shall include allowance for legal holidays and other announced plant shutdowns.
- (7) Users with the potential to discharge flammable substances may be required to install, maintain and operate, at the user's expense, an approved combustible gas detection meter.
- (8) WSACC may require a user, who has the potential to discharge wastewater in violation of pretreatment standards, to install, maintain, and operate at the user's expense, an approved pH controller and meter related to pH.

Plans for the construction of the equalization tank, control manhole, controlling devices, and volume measuring devices shall be approved by the executive director prior to the beginning of construction.

8. *Accidental discharge / slug control plans.*

- (a) The executive director shall evaluate whether each significant industrial user needs a plan or other action to control or prevent slug discharges as defined in section 78-61.2(a)(55). All SIUs must be evaluated within one year of being designated an SIU. The executive director may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the executive director may develop such a plan for any user.
- (b) Facilities to prevent accidental or slug discharges of prohibited materials shall be provided and maintained at the own-

er's or user's expense. Detailed plans of the facilities and operating procedures must be delivered to and received by WSACC for review before construction of the facility. Completion of an accidental or slug discharge plan may be required before a wastewater discharge permit will be issued. Review of such plans and operating procedures shall not relieve the SIU from the responsibility of modifying the SIU's facilities as necessary to meet the requirements of this article.

- (c) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential or spills, and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also, see sections 78-65.5 and 78-65.6.
- (d) An accidental discharge/slug control plan shall address, at a minimum, the following:
 - (1) Description of discharge practices, including non-routine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the executive director and the POTW of any accidental or slug discharge, as required by section 78-65.6 of this article; and
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

9. *Pump and haul wastewater procedures.* Any person engaging in the transport of septage, wastes from chemical toilets or other liquid or semi-liquid wastewater for the purpose of disposal shall be referred to herein as contract haulers. Contract haulers shall be allowed to empty wastewater permitted by this subsection into the sewer system at designated structures located at the POTW subject to the following limitations and conditions:

- (a) Any contract hauler proposing to discharge pump and haul wastes to the POTW must first apply for and receive from the State of North Carolina Department of Environment and Natural Resources - Solid Waste Division a permit to operate a septage management firm and discharge such waste to the POTW. The permit number must be prominently displayed by the contract hauler on the cab of the truck or on the tank in which sludge or waste is transported.
- (b) The contract hauler must apply for and receive a discharge permit from WSACC, accompanied by the applicable fee prior to discharging to the POTW. By accepting the permit to introduce septic tank sludge and chemical toilet wastes derived only from domestic sources into the sewer system the contract hauler agrees to dump or empty such sludge and waste only at designated structures, at such times as are established by the POTW, and to maintain these structures and the area surrounding them in a proper condition of cleanliness. Such waste shall not violate section 78-62 of this article or any other requirements established by WSACC.
- (c) The contract hauler shall not empty into the sewer system any grease trap wastes.
- (d) The contract hauler shall not empty into the sewer system any industrial waste without prior written approval from WSACC. The contract hauler must provide any and all information, including sampling analysis, requested by the executive director.
- (e) In addition to permit requirements, WSACC may require the contract hauler to provide with every load a representative sample of the waste to be discharged. For any sampling and analysis conducted by WSACC on the pump and haul waste, WSACC may include the cost incurred for such sampling and analysis on the contract hauler's next sewer usage bill. The contract hauler may also be required to provide the name, address and phone number of the customer for which the sample was provided.
- (f) Upon failure to maintain structures in a proper condition of cleanliness, failure to have a currently valid permit from the North Carolina Department of Solid Waste or failure to pay charges due to WSACC as hereinafter provided, WSACC may deny a contract hauler permission to dispose of waste into the sewer system and/or revoke or suspend the discharge permit. WSACC will notify the Cabarrus Health Alliance and/or state of such denial of permission to any contract hauler.
- (g) Failure of the contract hauler to comply in accordance with the ordinance or discharge permit or the submission of false or misleading information on an application may result in revocation of permit and/or penalties as provided for in section 78-68.
- (h) The contract hauler is responsible for any and all damages resulting from improper handling and/or spillage.
- (i) User fees shall be established at a rate to recover the cost of treatment and administration of the contract hauler program. Fees and payment policy shall be approved by the board of directors and shall be paid in accordance with the procedure established by the executive director.

(Ord. No. 2013-19, § 2, 8-19-13)

Sec. 78-63. Fees.

1. *Purpose.* It is the purpose of this section to provide for the recovery of costs from users of WSACC's wastewater disposal system for the

implementation of the program established herein. The applicable charges or fees shall be set forth in WSACC's schedule of charges and fees by the executive director and approved by the board of directors. A copy of these charges and fees will be made available from the executive director.

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

- (a) The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW.
- (b) Each user shall pay its proportionate cost based on volume of flow.
- (c) The executive director shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the board of directors for adjustments in the rate schedule as necessary.
- (d) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

3. *Surcharges.* AU industrial users of the POTW are subject to industrial waste surcharges on discharges which exceed the following levels:

BOD - 300 mg/l
 COD - 675 mg/l
 TSS - 250 mg/l
 NH₃ - 15 mg/l
 Oil/grease - 100 mg/l
 Aluminum - 1.80 mg/l
 Arsenic - 0.003 mg/l
 Cadmium - 0.003 mg/l
 Copper - 0.090 mg/l
 Chromium - 0.020 mg/l
 Cyanide - 0.041 mg/l

Lead - 0.049 mg/l
 Mercury - 0.0003 mg/l
 Nickel - 0.021 mg/l
 Silver - 0.005 mg/l
 Zinc - 0.176 mg/l

The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater discharged in excess of the levels listed above. An industrial user shall never increase the amount of water to dilute pollutant concentrations to avoid or reduce surcharges.

- (a) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
 - (1) Metered water consumption as shown in the records of meter readings maintained by WSACC. If a person discharging wastewater into the public sewers produces evidence to the executive director that a significant percent of the total annual volume of water used for all purposes does not reach the public sewers, then an estimated percentage of total water consumption to be used in determining non-domestic wastewater discharge may be agreed upon between the executive director and the person discharging such non-domestic wastewater into the public sewer. The executive director shall ascertain whether substantial evidence has been provided to prove a significant percent of water does not reach the public sewers; or
 - (2) If required by WSACC or at the individual discharges option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by WSACC and the governing municipality. The meter-

ing system shall be installed and maintained at the user's expense according to arrangements that may be made with WSACC.

(3) Where any user procures all or part of his water supply from sources other than WSACC, the user shall install and maintain at his own expense water meters of a type approved by WSACC for the purposes of determining the proper volume of wastewater discharged to such sewers.

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

(c) The determination by the executive director or his duly appointed representatives of the character and concentration of the wastewater discharge shall be binding as a basis for charges.

(d) Any source that discharges non-domestic wastewater in excess of the levels listed above may be subject to surcharges.

(e) The executive director may assess surcharges to users to recover any additional costs incurred by WSACC for the handling and disposal of sludge.

4. *Pretreatment program administration charges.* The schedule of charges and fees adopted by WSACC may include charges and fees for:

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

(b) Monitoring, inspections and surveillance procedures;

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

(d) Permitting; and

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

5. *Application and renewal fees.*

(a) The initial application of a user to discharge to the POTW shall include an application fee. This fee is for staff costs in reviewing said application and will not be refunded if a determination is made that the proposed facility does not need to participate in the pretreatment program.

(b) Each time a wastewater discharge permit or septage discharge permit is renewed, a permit renewal fee shall be collected to cover staff time and resources.

6. *Residential, commercial and unpermitted non-domestic users.* Regular sewer service fees and charges will be assessed to each residential, commercial and unpermitted non-domestic user for the use of the sewer systems to recover the costs incurred for the operation and administration of the collection and wastewater treatment systems.

7. *Penalties for failure to pay.* Payment of charges, fees, and assessments shall be made monthly and shall be due as specified on the bill. If any charges remain after the specified due date, a notice will be sent and a penalty will be applied to the unpaid balance in accordance with the terms and conditions governing payments set by the board of directors.

8. *Termination of services.*

(a) If any charges remain, after the final due date set by the executive director in accordance with board of directors' policy and procedures, water and sewer services may be terminated. Before services can be reinstated, the balance must be paid in full.

(b) In addition, failure to pay in a timely manner may cause WSACC to initiate action to revoke a user's wastewater discharge permit.

(c) Any discharge by the user after revocation of the wastewater discharge permit

will be subject to a fine of \$25,000.00 per day for as long as the discharge continues without a valid permit.

(Ord. No. 2013-19, § 3, 8-19-13)

Sec. 78-64. Wastewater discharge permit application and issuance.

1. *Wastewater dischargers.*

- (a) It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of WSACC. Any user proposing to discharge any industrial waste to the POTW or who is now doing so must make application to WSACC for a wastewater discharge permit.
- (b) Any industrial user proposing to change the volume or characteristics of an existing discharge shall request from WSACC a determination as to whether or not a new application should be filed and shall provide sufficient information on the proposed change to enable WSACC to determine the need for a new application. If the proposed change requires a revision in a current SIU or local permit or requires a different type of permit be issued, the user shall apply to WSACC for an appropriate wastewater discharge permit within 45 days of the notification.
- (c) When requested by the executive director, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The executive director is authorized to prepare a form for this purpose and may periodically require users to update this information.
- (d) Any person discharging or proposing to discharge wastewater into the POTW shall be responsible at all times for determining the volume and characteristics of its existing or proposed discharge.

2. *Wastewater discharge permit requirements.*

- (a) (1) All persons meeting one or more of the requirements of an SIU of this ordinance shall obtain an industrial

user pretreatment permit prior to the commencement of construction or operations which will result in a discharge to the POTW. Existing industrial users who are determined by the executive director to be SIUs shall obtain an industrial user pretreatment permit within 180 days of receiving notification of the executive director's determination.

For purposes of this definition, construction or operation has commenced if the owner or operator has:

- (i) Begun, or caused to begin as part of a continuous on-site construction program:
 - (A) Any placement, assembly, or installation of facilities or equipment; or
 - (B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the replacement, assembly, or installation of new source facilities or equipment; or
 - (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial obligation under this definition in accordance with that section with the provisions as stated in 40 CFR 403.3.(K).
- (2) Users who do not fit the SIU criteria may at the discretion of the executive director be required to obtain a local pretreatment permit as necessary to carry out the purposes of this article.
 - (3) Any violation of the terms and/or conditions of a wastewater discharge

permit shall be deemed a violation of this article. Obtaining a wastewater discharge permit does not relieve a permittee of the continuing obligation to comply with all federal and state pretreatment standards and/or requirements or with any other requirements of federal, state and local law.

- (b) *Significant industrial user determination.* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the executive director a significant industrial user determination. If the executive 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.
- (c) *Industrial user wastewater survey and permit application.* Users required to obtain an industrial user pretreatment permit shall complete and file with the executive director an application in the form prescribed by the executive director, and accompanied by the applicable fee in the amount prescribed in the schedule of charges and fees. SIUs shall apply for a permit within 90 days after notification of the executive director's determination in section 78-64.2(a) above. In support of this application, the user shall submit, in units and terms appropriate for evaluation, the following information;
- (1) Name, address, location, (if different from the address);
 - (2) Volume of wastewater to be discharged on a daily basis and over a specified timeframe;
 - (3) Standard industrial classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
 - (4) Analytical data on wastewater constituents and characteristics including, but not limited to, those set forth in section 78-62 of this article, any of the priority pollutants (Section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended and as required in section 78-65.10 and 78-65.11;
 - (5) Time and duration of the indirect discharge;
 - (6) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
 - (7) Description of all pretreatment facilities, existing and proposed;
 - (8) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by size, location and elevation;
 - (9) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
 - (10) List of all hazardous or toxic chemicals used in plant processes including information concerning handling, storage and potential for aqueous contact;
 - (11) Number of employees and hours of operation of plant proposed or actual hours of operation of pretreatment system;
 - (12) Where known, the nature and concentration of any pollutants in the

discharge which are limited by WSACC, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

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

- (i) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine months.
- (ii) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to WSACC 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. In no event shall more than nine months elapse between such progress reports to WSACC.

(14) Each product produced by type, amount, process or processes and rate of production;

(15) Type and amount of any materials processed (average and maximum per day);

(16) If subject to a categorical standard, a base line monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H.0908(a), as outlined in section 78-65.1 of this article;

(17) Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g);

(18) Any other information as may be deemed by WSACC to be necessary to evaluate the permit application.

- (d) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the control authority and/or municipality as defined in section 78-61.2(a)(3) and contain the following certification statement:

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

(e) *Application review and evaluation.* The executive director will evaluate the data furnished by the user and may require additional information.

- (1) The executive director is authorized to accept applications for WSACC and shall refer all applications to WSACC staff for review and evaluation.
- (2) Within 45 days of receipt of the application, the executive 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.
- (3) The executive director may deny any incomplete application for a wastewater discharge permit if the applicant fails to submit all required information within the time specified by WSACC.

3. *Wastewater discharge permit issuance and conditions.*

(a) *Tentative determination and draft permit.*

- (1) WSACC staff shall conduct a review of the application and an on-site inspection of the SIU, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the wastewater discharge permit.
- (2) If WSACC staffs tentative determination is to issue the permit, the following additional determinations shall be made in writing:
 - (i) Proposed discharge limitations for those pollutants to be limited;
 - (ii) Monitoring requirements for pollutants which are suspected to be present but which are not proposed to be limited at the time the permit is issued. After issuance, the permit may be

modified pursuant to section 78-64.4(b) to impose limits on one or more of such pollutants.

- (iii) Where applicable, a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations to include, but not be limited to, installation of a new monitoring point and/or flow measuring equipment; and
 - (iv) A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
- (3) WSACC staff shall organize the determinations made pursuant to paragraphs (1) and (2) above and WSACC's general permit conditions into a wastewater discharge permit.

(b) *Permit supporting documentation.* The control authority staff shall prepare the following documents for all significant industrial user permits.

- (1) An allocation table (AT) listing permit information for all significant industrial users, including, but not limited to, permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with division-approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.
- (2) The basis, or rationale, for the pretreatment limitations, including the following:
 - (i) Documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and

- (ii) Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).
- (c) *Final action on wastewater discharge permit applications.*
- (1) The executive director shall take final action on all applications not later than 90 days following receipt of a complete application.
 - (2) The executive director is authorized to:
 - (i) Issue wastewater discharge permit containing such conditions as are necessary to effectuate the purposes of this article and G.S. 143-215.1;
 - (ii) Issue a wastewater discharge permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
 - (iii) Modify any permit upon not less than 60 days' notice and pursuant to section 78-64.4(b) of this article;
 - (iv) Revoke or suspend a permit pursuant to section 78-68.1 of this article;
 - (v) Deny a permit application when in the opinion of the executive director such discharge may cause or contribute to pass through or interference of or where necessary to effectuate the purposes of G.S. 143-215.1; and
 - (vi) Determine, based on the application, that the applicant is not an SIU.
- (d) *Permit conditions.*
- (1) The executive director or designee 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 discharge permits shall contain, but are not limited to, the following:
 - (i) A statement of duration (in no case more than five years);
 - (ii) A statement of non-transferability;
 - (iii) Applicable effluent limits based on categorical standards or local limits or both;
 - (iv) 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.
 - (v) Requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in section 78-61.2(a)(55);
 - (vi) Requirements to implement a plan or other controls for prevention of accidental discharges and/or slug loads as defined in section 78-61.2(a)(55), if determined by the executive director to be necessary for the user;
 - (vii) Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in section 78-61.2(a)(55). Also see sections 78-65.5 and 78-65.6; and
 - (viii) A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
 - (2) In addition, permits may contain, but are not limited to, the following:
 - (i) Limits on the average and/or maximum rate and time of dis-

- charge, and/or requirements for flow regulation and equalization.
 - (ii) Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 - (iii) 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 wastewater treatment system.
 - (iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the wastewater treatment system.
 - (v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
 - (vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 - (vii) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
 - (viii) Requirements for immediate reporting of any instance of non-compliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation(s).
 - (ix) Compliance schedules for meeting pretreatment standards and requirements.
 - (x) Requirements for submission of periodic self-monitoring or special notification reports.
 - (xi) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section 78-65.13 and affording the executive director, or his designee, access thereto.
 - (xii) Requirements for prior notification and approval by the executive 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.
 - (xiii) Requirements for the prior notification and approval by the executive director of any change in the manufacturing and/or pretreatment process used by the permittee.
 - (xiv) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit.
 - (xv) Other conditions as deemed appropriate by the executive director to ensure compliance with this article, and state and federal laws, rules, and regulations.
- (e) *General and limited conditions.*
- (1) The executive director is authorized to establish one or more general conditions for inclusion in all wastewater discharge permits. In addition, the executive director is authorized to designate one or more classes of users and may establish one or more limited conditions for inclusion in all wastewater discharge permits issued to users in a designated class.
 - (2) In designating a class, the executive director shall identify one or more

common factors characterizing the members of such class and determine that at least five permitted users satisfy all of such factors. Before a condition established or class designated pursuant to this subsection may take effect, written notice of such condition or class shall be given to all users holding a permit at the time that such condition or class is proposed and such users shall be allowed at least 30 days within which to submit written comments to the executive director. Thereafter, the executive director may make such condition or class effective without modification or may modify such condition or class without further notice to any person.

- (3) For each condition established pursuant to this subsection, the executive director shall determine the effective date thereof. From and after the effective date of each condition established pursuant to this subsection, every wastewater discharge permit which is issued, renewed, amended, or otherwise modified shall contain: every general condition which remains in effect; and for each user in one or more classes designated pursuant to this subsection, every applicable limited condition.

4. *Permit duration, modification, transfer, reissuance.*

- (a) *Permits duration.* Permits shall be issued for a specified time period not to exceed five years. A permit may be issued for a period less than one year or may be stated to expire on a specific date.
- (b) *Permit modification.*
- (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes

or new conditions in the permit shall include a reasonable time schedule for compliance.

- (i) Changes in the ownership of the discharge when no other change in the permit is indicated;
- (ii) A single modification of any compliance schedule not in excess of four months;
- (iii) 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;
- (iv) Modifications of the monitoring program contained in the permit;
- (v) To incorporate any new or revised federal, state or local pretreatment standards or requirements;
- (vi) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (vii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (viii) Information indicating that the permitted discharge poses a threat to the POTW, the POTW personnel, or the receiving waters;
- (ix) Violation of any terms or conditions of the wastewater discharge permit;
- (x) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

- (xi) Revision or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (xii) To correct typographical or other errors in the wastewater discharge permit; or
- (xiii) To reflect a transfer of the facility ownership or operation to a new owner or operator.

- (2) Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit or does not currently have an SIU permit, as required by section 78-64.2(b), the user shall apply within 180 days after the promulgation of such standard.
- (3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. 143-215.1(b) for modifications.

(c) *Permit transfer.*

- (1) Wastewater discharge permits are issued to a specific user for a specific operation. A permittee may not assign, transfer, or sell a permit, or any right or obligation in a permit, to another user or person.
- (2) Wastewater discharge permits may be transferred to a new owner or operator only if the permittee requests of WSACC a transfer at least 60 days in advance of the proposed transfer and WSACC approves the wastewater discharge permit transfer. Within five business days of the date of facility transfer, authorized representatives of the permittee and

the new owner or operator must give joint, written notice to WSACC of the date of transfer. If the transfer has been approved, WSACC shall take such steps as are necessary to document the transfer of the permit. The request to WSACC to transfer the permit must include a written certification in a form satisfactory to the executive director by the new owner or operator which:

- (i) States that without prior notification to and approval by WSACC, the new owner and/or operator agrees not to make any change or expansion in the manufacturing/production and/or pretreatment process used by the permittee, which has potential to impact the characteristics or volume of the discharge or the manner in which the discharge is regulated.
- (ii) Identifies the specific date on which the proposed transfer is to occur; and
- (iii) Acknowledges and accepts full responsibility for complying with all terms and provisions of the wastewater discharge permit to be transferred. Failure to comply fully with the provisions of this article renders the wastewater discharge permit void as of the date of facility transfer.

- (d) *Permit reissuance.* A SIU shall apply for permit reissuance by submitting a complete permit application in accordance with section 78-64.2 a minimum of 180 days prior to the expiration of the existing permit.

(Ord. No. 2013-19, § 4, 8-19-13)

Sec. 78-65. Reporting requirements.

1. *Baseline monitoring reports.*

- (a) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision

on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing industrial users who are subject to the standard and are currently discharging to or scheduled to discharge to the POTW shall submit to the executive director a report which contains the information listed in paragraph (b) below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the executive director a report which contains the information listed in paragraph (b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

- (b) Users described above shall submit to the executive director the information set forth below:
- (1) *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - (2) *Environmental permits.* A list of any environmental control permits held by or for the facility.
 - (3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
- (5) *Measurement of pollutants.*
- (i) The categorical pretreatment standards applicable to each regulated process.
 - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the executive director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 78-65.10 of this article.
 - (iii) Sampling must be performed in accordance with procedures set out in section 78-65.11 of this article and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
- (6) *Certification.* A statement, reviewed by the user's current authorized representative as defined in section 78-61.2(a)(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A com-

pliance schedule pursuant to this section must meet the requirements set out in section 78-65.2 of this article.

- (8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 78-64.2(c) of this article.

2. *Compliance schedule progress reports.* The following conditions shall apply to all industrial users, who are required by WSACC to submit compliance schedules in conjunction with their baseline monitoring reports, interim permit limits or enforcement orders:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine months;
- (c) The user shall submit a progress report to the executive director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine months elapse between such progress reports to the executive director.

3. *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 industrial user subject to such pretreatment standards and requirements shall submit to the executive director a report containing the information described in section 78-65.1(b)(4)—(6) 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 measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 78-64.2(c) of this article.

4. *Periodic compliance reports.*

- (a) All SIUs shall, at a frequency determined by the executive director but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in sections 78-65.10 and 78-65.11 of this article. All periodic compliance reports must be signed and certified in accordance with section 78-64.2(c) of this article.
- (b) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the executive director, using the procedures prescribed in sections 78-65.10 and 78-65.11 of this article, the results of this monitoring shall be included in the report.

5. *Reports of changed conditions.* Each user must notify the executive 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 60 days before the change. Failure of WSACC to respond does not relieve the industrial user from complying with this article. The permittee shall not begin

the changes until receiving written approval from the control authority and/or municipality. See section 78-65.6(d) for other reporting requirements.

- (a) The executive 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 section 78-64.2 of this article.
- (b) The executive director may issue a wastewater discharge permit under section 78-64.2 of this article or modify an existing wastewater discharge permit under section 78-64.2 of this article in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of 20 percent or greater; the discharge of any previously unreported pollutants; increases or decreases to production; increases in discharge of previously reported pollutants; discharge of pollutants not previously reported to the control authority; new or changed product lines; new or changed manufacturing processes and/or chemicals; or new or changed customers.
- (d) Any industrial user filing a request for determination under section 78-64.2 may not be required to file such a report under this section.
- (e) A report filed under this section does not relieve the industrial user from any requirement(s) under section 78-64.2.

6. *Reports of potential problems.*

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, as defined in section 78-61.2(a)(54), that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW of the incident. This notification shall in-

clude the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

- (b) Within five days following such discharge, the user shall, unless waived by the executive 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.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in section 78-61.2(a)(54).
- (e) WSACC shall evaluate whether the industrial user needs a plan to prevent the recurrence of the discharge. Such a plan shall address, at a minimum, the requirements set forth in section 78-62.8(b)(1)—(4).

7. *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the executive director as the executive director may require.

All users classified as non-significant categorical industrial users under section 78-61.2(a)(54)(F) 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).

8. *Notice of violation / repeat sampling and reporting.*

- (a) If sampling performed by a user indicates a violation of this article and/or applicable wastewater discharge permit, the user must notify the executive 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 executive director within 30 days after becoming aware of the violation. If allowed by the executive director, the user is not required to resample:
 - (1) If the executive director monitors at the user's facility at least once a month; or
 - (2) If the executive director samples between the user's initial sampling and when the user receives the results of this sampling.
- (b) If the executive director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the executive director shall repeat the sampling and obtain the results of the repeat analysis within 30 days after becoming aware of the violations, unless one of the following occurs:
 - (1) The executive director monitors at the user's facility at least once a month; or
 - (2) The executive director samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
 - (3) The executive director requires the user to perform sampling and submit the results to the executive di-

rector within the 30 day deadline of the POTW becoming aware of the violation.

9. *Notification of the discharge of hazardous waste.* WSACC prohibits the discharge of any hazardous wastes without notification to and approval by the executive director or designee.

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the nature 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 waste stream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days before the discharge commences. The user shall not begin the discharge until receiving written approval from WSACC. Any notification under this paragraph needs to be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section 78-65.5 of this article. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment stan-

dards under the self-monitoring requirements of sections 78-65.1, 78-65.3, and 78-65.4 of this article.

- (b) Users are exempt from the requirements of paragraph (a) above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 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.
- (c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the executive director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.

10. *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 WSACC. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and WSACC. Analyses must be performed by a state-certified lab for each parameter analyzed, if such certification exists for that parameter.

11. *Grab and composite sample collection.*

- (a) *All wastewater samples must be representative of the user's discharge.* Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (b) *Grab samples must be used for 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 executive director may allow collection of multiple grabs during a 24-hour period which are composited prior to analysis as allowed under 40 CFR 136.
- (c) *Composite samples.* All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the executive director. When authorizing time-proportional composites or grabs, the samples

must be representative and the decision to allow the alternative sampling must be documented.

12. *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.

13. *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 of self-monitoring activities required by this article, wastewater discharge permit and/or other documents issued by or entered into with WSACC, shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates the analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user's discharge to the POTW unless otherwise ordered by the court in which litigation is pending, or where the user has been specifically notified of a longer retention period by the executive director.

14. *Industrial waste survey.*

- (a) At a frequency established by WSACC, an industrial waste survey that identifies industrial users and characterizes their discharge of wastewater will be conducted. Each user included in the survey is required to respond with complete and accurate information on the specified schedule.
- (b) The survey results may be used to establish an industrial user inventory and to modify or issue any applicable wastewater discharge permit.

- (c) Failure to respond to the survey completely and accurately may result in any enforcement action that WSACC may determine to be appropriate.

15. *Forms.* WSACC may establish such forms as the executive director determines to be appropriate and require the use of such forms in the submission of any report, application, request, or other information contemplated by this article. Failure to use the established form for the submission of a report, application, request, or other information may result in the rejection of the submission.

16. *Electronic reporting.* The POTW director may develop procedures for receipt of electronic reports for any reporting requirements of this article. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under section 78-68 of this article.

17. *Special reporting requirements for IUs in satellite POTWs.* In the case of industrial user located in a satellite POTW organization's jurisdiction, all information required to be reported to the industrial user's pretreatment program control authority by the section may also be required to be reported to the POTW treatment plant organization.

(Ord. No. 2013-19, § 5, 8-19-13)

Sec. 78-66. Compliance monitoring.

1. *Monitoring facilities.*

- (a) WSACC requires the user to provide and operate at the user's 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 WSACC may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- (b) There shall be ample room in or near such sampling manhole or facility to allow ac-

curate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

- (c) Whether constructed on public or private property, the monitoring facilities shall be provided in accordance with WSACC's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by WSACC.
- (d) Should WSACC determine that a monitoring facility does not comply with this article, or that access thereto has been denied, WSACC may require the user, at its own expense, to modify or relocate the monitoring facility.

2. *Authority to inspect and sample.*

- (a) WSACC will inspect the facilities of any user to ascertain if the user is complying with all requirements of this article, the Act, other applicable law regulating the discharge of wastewater into the POTW, a compliance agreement to which the user is a party and which is authorized by this article, any order issued to the user pursuant to this article and any permit issued to the user pursuant to this article.
- (b) Any person who owns, occupies or otherwise controls any premises where wastewater is created or discharged shall provide WSACC, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. WSACC, approval authority and EPA shall have the right to set up on the user's premises such devices as are reasonably necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. If a user has security measures in force which would require identification and clearance before entry

into the user's premises, the user shall make necessary arrangements with their security personnel so that upon presentation of identification (identification being defined as the piece(s) of identification supplied by WSACC, approval authority or EPA to their respective, authorized representatives) authorized representatives from WSACC, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of access to WSACC, approval authority or EPA to the user's premises shall be a violation of this article. Denial of access may also occur if a user fails to provide without delay such facilities, equipment, or devices as are reasonably necessary to permit authorized representatives of WSACC, approval authority and EPA to perform their duties in a safe manner. Unreasonable delays may constitute denial of access. A WSACC representative may enter upon the property at any hour under emergency circumstances.

- (c) The time of access to a user's premises will be reasonable if, at the time ready access is requested, the user's facility at the premises is in operation or wastewater is being discharged from the user's premises into the POTW. At such time as the user's facilities at the premises is in operation or wastewater is being discharged from the user's premises into the POTW, the user shall have at least one person present at the premises who is readily available and is authorized to permit immediate access to the user's premises to WSACC, the approval authority, and the EPA.
- (d) At all times WSACC shall retain the authority to inspect the user and to sample and analyze the discharge of wastewater into the POTW for any purpose.

3. *Search warrants.* If the WSACC, 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 WSACC 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 WSACC, approval authority, or EPA may seek issuance of a search warrant from the Superior Court of Cabarrus County.

(Ord. No. 2013-19, § 6, 8-19-13)

Sec. 78-67. Confidential information.

(a) To the extent permitted by applicable law and except as otherwise provided herein, 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 agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the executive director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

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

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

(Ord. No. 2013-19, § 7, 8-19-13)

Sec. 78-68. Enforcement.

1. Administrative remedies.

- (a) *Notification of violation.* Whenever the executive director or his designee finds that any industrial user has violated or is violating any provision of this article, wastewater discharge permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement or standard, the executive director may serve upon such 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 WSACC by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section may be construed to require WSACC to issue an NOV before taking any action, including emergency actions or any other enforcement actions.
- (b) *Consent orders.* The executive 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 with any provision of this article, the wastewater discharge permit or any other pretreatment requirement or standard. 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 78-68.1(d) below.
- (c) *Show cause hearing.* The executive 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 discharge permit to show cause why a proposed enforcement action should not be taken. In the event the executive direc-

tor determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

The executive 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 section 78-68.2 nor is any action or inaction taken by the executive director under this section subject to an administrative appeal under section 78-70.

- (d) *Compliance orders.* If WSACC finds that an industrial user has violated or continues to violate any provision of this article, a compliance agreement issued pursuant to this article, a wastewater discharge permit, pretreatment requirement or standard, or order issued pursuant to this article, or any other provision of applicable law, WSACC may issue an order requiring such person to do any one or more of the following:
- (1) Comply with the provisions of this article, any applicable permit, pretreatment requirement or standard, or order issued pursuant to this article or other provision of applicable law in accordance with a time schedule set forth in the order;
 - (2) Take appropriate remedial or preventative action(s) in the event of a continuing or threatened violation of any provision of this article, a wastewater discharge permit, pretreatment requirement or standard, or

order issued pursuant to this article or any other provision of applicable law;

- (3) Pay a civil penalty for violating any provision of this article, a wastewater discharge permit, compliance agreement, pretreatment requirement or standard, or order issued pursuant to this article.

(e) *Cease and desist orders.*

- (1) If the executive director finds that an industrial user has violated or continues to violate any provision of this article, a wastewater discharge permit, pretreatment requirement or standard, or orders issued pursuant to this article or any other provision of applicable law, the executive director may issue an order requiring such industrial user to cease and desist all such violations and direct such person in noncompliance to perform any one or more of the following:
 - (i) Comply immediately with all provisions of this article, a wastewater discharge permit or order issued pursuant to this article or other applicable law;
 - (ii) Take appropriate remedial or preventative action(s) in the event of a continuing or threatened violation of any provision of this article, a compliance agreement issued pursuant to this article, a wastewater discharge permit, pretreatment requirement or standard, or order issued pursuant to this article or any other provision of applicable law;
 - (iii) Discontinue all or any portion of such user's contribution or introduction of wastewater into the POTW unless adequate treatment facilities, devices or

other related appurtenances are installed and operated properly within a specified time period;

- (iv) Disconnect all or any portion of the facilities by which such user introduces or contributes wastewater into the POTW unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

- (2) In addition to or in lieu of the matters set forth in section 78-68.1(e)(1), WSACC may include in such order one or more of the following provisions:

- (i) The removal of all or any portion of any service connection by which such user introduces or contributes wastewater into the POTW;
- (ii) The removal of all or any portion of any service connection by which such user receives water services;
- (iii) The termination of any wastewater discharge permit issued to such user pursuant to this article;
- (iv) The payment of a civil penalty for violating any provision of this article, a permit, pretreatment requirement or standard, compliance agreement or order issued pursuant to this article.

(f) *Emergency suspensions.*

- (1) The executive director may order the suspension of the wastewater treatment service and/or wastewater discharge permit of any user when such suspension is necessary in order to stop an actual or threatened discharge which will or may: present imminent or substantial endangerment to the health or welfare of any person or the environment; cause interference; or cause WSACC to vi-

olate any condition of its NPDES or non-discharge permits. The suspension shall be effective in accordance with the provisions of the order of suspension upon service on the user responsible for such discharge. The order shall identify each pollutant in the discharge which is the basis for the suspension and the potential effect each pollutant, either singly or in combination with one or more pollutants, will or may have upon any person, the environment, the POTW and/or NPDES or non-discharge permit of WSACC. The order shall also set a date for a hearing to be held in accordance with section 78-68.1(f)(3).

- (2) Any user when served with an order that its wastewater treatment service and/or any wastewater discharge permit is suspended shall immediately stop or eliminate the introduction or contribution of wastewater into the POTW. The user shall prepare a written response to such an order and shall serve such statement on WSACC within five calendar days after the service of the order or two business days prior to the hearing, whichever date is earlier. The statement shall: identify every provision of the order which the user believes to be inaccurate; set forth a complete basis for such belief; describe in detail the circumstances which resulted in the discharge described in the order of suspension; and describe such measures as have been taken or are proposed by the user to prevent a future, similar discharge. Failure to prepare and serve the statement in a timely manner shall constitute a waiver by the user of its right to a hearing.
- (3) A hearing shall be held as soon as reasonably possible and in no event later than 15 calendar days of service of the order unless waived by

the user. The hearing shall be conducted in the manner set forth in section 78-70; provided that, such changes shall be made by the executive director in the conduct of the hearing as are reasonably necessary to permit an expedited hearing. The executive director shall determine whether the suspension shall be lifted or the user's permit terminated. Such decision shall be issued in writing as soon as possible and, in any event within two business days after the conclusion of the hearing.

- (4) The executive director may take such action as is reasonably necessary or convenient to prevent the continued introduction or contribution of wastewater into the POTW by the user, including, but not limited to, the immediate severance of the sewer connection between the user's facilities and the POTW.
- (5) Nothing in the section may be construed to require that a hearing be conducted prior to any emergency suspension authorized by this section or limit the authority of WSACC under this section as a result: of one or more other actions taken by WSACC to secure the user's compliance with the provisions of this article and/or permit or order issued pursuant to this article, the pendency of a demand by the user for a hearing pursuant to section 78-70; or the pendency of judicial review.
- (6) For the purposes of this section, "calendar days" refers to and includes any Saturday, Sunday, or holiday. For purposes of this section, "business day" refers to and includes any day which WSACC is open to the public to conduct business.
- (g) *Termination of permit or permission to discharge.* The executive director may revoke a wastewater discharge permit or

permission to discharge for good cause, including, but not limited to, the following reasons:

- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure to report a change or expansion in the manufacturing/production and/or pretreatment process used by the permittee, which has potential to impact the characteristics or volume of the discharge or the manner in which the discharge is regulated;
- (3) Refusal or reasonable access to the user's premises for the purpose of inspection or monitoring;
- (4) Violation of conditions of the permit or permission to discharge, conditions of this article, or any applicable state and federal regulations; or
- (5) Failure to submit any required report.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under section 78-68.1 of this article why the proposed action should not be taken.

2. *Civil penalties.*

- (a) 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 of up to \$25,000.00 per day per violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.
 - (1) Penalties between \$10,000.00 and \$25,000.00 per day per violation may be assessed against a violator only if:
 - (i) For any class of violation, only if a civil penalty has been imposed against the violator within five years preceding the violation, or

- (ii) In the case of failure to file, submit, or make available as the case may be, any documents, data, or reports required by this article, or the orders, rules, regulations and permit issued hereunder, only if the executive director determines that the violation was intentional and a civil penalty has been imposed against the violator with the five years preceding the violation.
 - (b) In addition to civil penalties, WSACC may recover from the responsible user the cost of repairing any damage to the POTW resulting from the user's violation.
 - (c) In determining the amount of the civil penalty, WSACC shall take into account all relevant circumstances, including, but not limited to:
 - (1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
 - (2) The duration and gravity of the violation;
 - (3) The effect on ground or surface water quantity or quality or on air quality;
 - (4) The cost of rectifying the damage;
 - (5) The amount of money saved by non-compliance;
 - (6) Whether the violation was committed willfully or intentionally;
 - (7) The prior record of the violator in complying or failing to comply with the pretreatment program;
 - (8) The costs of enforcement to WSACC.
 - (d) The assessment of civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.
 - (e) Appeals of civil penalties assessed in accordance with this section shall be provided in section 78-70.
 - (f) Such assessments may be added to the user's next scheduled sewer service charges and/or surcharges, and WSACC shall have such remedies for collection of such assessments as it has for collection of other charges.
3. *Other available remedies.* Remedies, in addition to those previously mentioned in this article, are available to the executive director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:
- (a) *Criminal violations.* WSACC shall assist any federal or state agency, office or authority responsible for criminal investigations or prosecutions for violation of any provision of this article or other federal or state law concerning the discharge of wastewater or other substances into the POTW or the waters of the state. WSACC may request any appropriate federal or state agency, office or authority to undertake an investigation or prosecution of any person for any violation of the provisions of this article or other federal or state law concerning the discharge of wastewater or other substances into the POTW or the waters of the state. [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 WSACC (G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement, of a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. 143-215.6B(i)).]
 - (b) *Injunctive relief.* Whenever a user is in violation of the provisions of this article or an order or permit issued hereunder, the executive director, through WSACC Attorney, may petition in 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 a user is in violation of the provisions of this article or an order or permit issued hereunder, water service to the user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.
- (d) *Civil relief.* If any person discharges sewage, industrial wastes or other wastewater into the POTW contrary to the provisions of this article, pretreatment requirements or standards, any order of WSACC, or violates its wastewater discharge permit, an action may be commenced in the name of WSACC for appropriate legal and/or equitable relief in the appropriate division of the state's general court of justice.
- (e) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this article or contained in a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the executive director or his designee. Any person(s) creating a public nuisance shall be subject to the provisions of this article governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

4. *Remedies nonexclusive.* The remedies provided for in this article are not exclusive. The executive director may take any, all, or any combination of these actions against any person in violation of the provisions of this article. Enforcement of pretreatment violations will generally be in accordance with WSACC's enforcement response plan. However, in no instance may such a plan be construed to limit the authority of WSACC to take any action which WSACC determines to be appropriate for a violation of any discharge permit or order issued pursuant to this article. Further, the executive director is empowered to

take more than one enforcement action against any person in violation of the provisions of this article.

(Ord. No. 2013-19, § 8, 8-19-13)

Sec. 78-69. Annual publication of significant noncompliance.

At least annually, the executive director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H.0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

(Ord. No. 2013-19, § 9, 8-19-13)

Sec. 78-70. Adjudicatory hearing.

(a) *Persons entitled to hearing.* The following persons are entitled to a hearing pursuant to this section:

- (1) An applicant for a wastewater discharge permit or other permit required by this article who is denied a permit or is granted a permit subject to conditions which are unacceptable to the applicant;
- (2) A user who is assessed a civil penalty pursuant to section 78-68.2;
- (3) A user to whom an order is issued pursuant to section 78-68.1(d) or (e).

(b) *Demand for hearing.*

- (1) Any person entitled to a hearing pursuant to this section shall exercise such right as set forth in section 78-70(b)(2). Such demand shall be in writing and state separately each issue to be considered and such other matters as are hereinafter required.
- (2) Any person making a demand for a hearing shall deliver the demand to the executive director within the following applicable time limits after receipt of notice of the action to be heard:
 - (i) Thirty days for the denial of a permit required by this article or for the

grant of a permit required by this article subject to conditions which are unacceptable to the applicant;

- (ii) Thirty days of the assessment of a civil penalty;
- (iii) Twenty days for a compliance order issued pursuant to section 78-68.1(d);
- (iv) Ten days for a cease and desist order issued pursuant to section 78-68.1(e).

(c) *Contents of demand.* In the demand for a hearing to consider:

- (1) A permit granted subject to unacceptable conditions, the applicant must identify separately each unacceptable condition and every basis for such contention;
- (2) A civil penalty assessment, the person to whom such penalty was assessed must state separately each reason why such penalty should not be assessed or, if the user contends that the civil penalty was assessed in an improper amount, each reason why the amount of the penalty is improper; and
- (3) The issuance of an order, the person to whom such order is issued must identify separately each provision of the order which is improper and every basis for such contention.

(d) *Conduct of hearing.*

- (1) The hearing shall be conducted by the executive director and shall be subject to such rules as have been approved by the board of directors or the executive director as hereinafter set forth. If the demand for a hearing is not made in accordance with the provisions of this section, the executive director shall reject the demand and any right to a hearing shall be terminated. If any person demanding a hearing shall fail to comply with an order of the executive director or with any rules issued by the executive director or approved by the board of directors concerning the conduct of the hearing, the executive director may reject the demand and any right to a hearing shall be terminated.

Within 90 days of the receipt of the written demand for a hearing, the executive director shall conduct a hearing and issue a final order or decision. The executive director shall transmit a copy of the final order or decision to the person demanding the hearing by registered or certified mail. No further review of the executive director's final order or decision will be allowed, except as set forth in section 78-70(g).

- (2) The executive director may submit rules to the board of directors for approval concerning the conduct of the hearing and any other matter associated with the hearing. Such rules may impose requirements in addition to the provisions of this section. Upon approval by the board of directors, such rules shall be as effective as if set forth in this section. The executive director shall make a copy of such rules available for inspection upon the request of any person.
- (3) The executive director is authorized to take any action which is reasonably necessary or convenient in considering a demand for a hearing and in resolving the issues raised therein so long as such action is not contrary to the provisions of this article, any rules approved by the board of directors or other applicable law.
- (4) The executive director may appoint a hearing officer to conduct any hearing authorized by this section. A hearing officer shall have the same authority to conduct a hearing and reach a decision as is provided to the executive director; provided that, the decision of the hearing officer shall not be final but shall be a recommended decision for consideration by the executive director. The executive director may approve such decision without change, reject the decision and require a new or continued hearing, or issue a different or revised decision which is supported by evidence presented at the hearing. The executive director may refer a recommended decision of a hearing officer to the chairman of the board or his designee. In

the event of a referral, the chairman of the board or his designee shall have the same authority to act upon a recommended decision of a hearing officer as is provided to the executive director. The decision of the executive director or, in the event of a referral, of the chairman of the board or his designee shall be final. A final order may provide that the action which is the basis for the demand for a hearing is approved without change or may modify such action in any manner that is supported by the evidence presented at the hearing.

- (5) The executive director may provide for any part of the hearing to be recorded by any reasonable means, including, but not limited to, audio and/or video recording, stenographer, or court reporter. A transcript of any hearing, or part thereof, which is recorded need not be prepared unless requested. The original of a requested transcript shall be filed with the executive director. Each person shall bear the cost of the transcript which said person requests, including any copy thereof.
- (e) *Stay of permit conditions pending hearing.*
- (1) Except as provided in section 78-70(e)(4) each condition of a permit which has been included in a demand for a hearing in accordance with the provisions of this section is stayed and shall not take effect until the earliest occurrence of any one of the following circumstances: Such condition is approved or is modified by the executive director at an adjudicatory hearing; or the applicant and the executive director agree on the conditions of the permit. This subsection shall not be construed to stay any provision of this article or other applicable law.
 - (2) Upon receipt of a demand for a hearing on a permit granted subject to unacceptable conditions, the executive director shall identify each provision to which no objection was made and such provisions shall remain in effect; provided that, if the executive director determines that it would be unreasonable for a provision to apply when all surrounding circumstances are considered, the executive director in his sole discretion may stay such provision until the time set forth in section 78-70(e)(1).
- (3) If the unacceptable permit is a renewal of an existing permit, each provision of the applicants existing permit will remain in effect until the time set forth in section 78-70(e)(1) above; provided that such provision from the existing permit does not conflict with any provision of the unacceptable permit which is not stayed. In the event of a conflict, the provision from the unacceptable permit will control.
 - (4) Any condition of a permit which is unacceptable to an applicant and which is included in a permit pursuant to section 78-64.3(d) shall remain in effect and shall not be stayed by the provisions of section 78-70(e)(1).
- (f) *Stay of assessment; order.*
- (1) (i) Each assessment of a civil penalty which has been included in a demand for a hearing in accordance with the provisions of this section is stayed and shall not take effect until the earliest occurrence of any one of the following circumstances: the assessment of the civil penalty is approved or is modified by the executive director at an adjudicatory hearing; or the person who is assessed the civil penalty and the executive director agree on the assessment.
 - (ii) If the assessment of a civil penalty against any person is approved or modified by the executive director at an adjudicatory hearing, the executive director may include the following provisions in any order or decision:
 - (A) Said person may be required to pay said penalty within ten days or such additional time as the executive director may specify;

(B) If said penalty is not paid in a timely manner, the penalty will be delinquent and water and/or sewer service may be terminated to said person without further notice. If water and/or sewer service is terminated pursuant to a decision authorized by this subsection, the application charges and fees as set forth in section 78-63 must be paid before service will be restored.

- (2) Except as provided in section 78-68.1(f)(suspension), each provision of an order which has been included in a demand for a hearing in accordance with the provisions of this section is stayed and shall not take effect until the earliest occurrence of any one of the following circumstances: such provision is approved or is modified by the executive director at an adjudicatory hearing; or the person to whom the order is directed and the executive director agree on the terms of the order. This subsection shall not be construed to stay any provision of this article or other applicable law.
- (3) Upon receipt of a demand for a hearing on an order, the executive director shall identify each provision to which no objection was made and such provision shall remain in effect; provided that, if the executive director determines that it would be unreasonable for such provision to apply when all surrounding circumstances are considered, the executive director in his sole discretion may stay such provision until the time set forth in section 78-70(f)(2).

(g) *Judicial review.* Any person against whom a final order or decision of the executive director is made pursuant to the hearing conducted under section 78-70, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice of the order or decision, but not thereafter, with the Superior Court of Cabarrus County. If not previously requested, said person shall request in writing that

a transcript be prepared for every part of the hearing which was recorded. Said request shall be made at or before the time that the petition is filed. A copy of the petition shall be served on WSACC in the manner required by law. Within 30 days after service of a copy of the petition upon WSACC or such other time as may be ordered by the court, WSACC shall prepare and transmit to the court the original or a certified copy of the official record of the hearing as hereinafter set forth. The official record of the hearing shall consist of:

- (1) All notices, motions and other similar documents;
- (2) All documentary and tangible evidence tendered at the hearing; and
- (3) The final order or decision. A transcript of each part of the hearing that was recorded shall be included in the official record as an exhibit, if available at the time the remaining portion of the official record is transmitted to the court. If the transcript is not available at that time, it shall be transmitted to the court as soon as reasonably possible after the transcript has been prepared. If testimony is taken and not recorded, a narrative summary of any testimony taken shall be prepared and transmitted to the court as an exhibit to the official record.

(h) *[Remission consideration.]* The executive director may consider petitions for remission of civil penalties assessed pursuant to this article. A petition for remission shall be in writing and shall be signed by the persons against whom the civil penalty was assessed. The petition shall include: a waiver of any and all rights of the petitioner to an adjudicatory hearing and judicial review of the assessment; and a stipulation that the facts are correct as set forth in the document(s) assessing the civil penalty. The decision of the executive director on the petition shall be final and shall not be subject to further administrative or judicial review. In determining whether a petition for remission will be approved, the executive director shall consider recommendations and the following factors:

- (1) Whether one or more of the factors concerning the assessment of a civil penalty in section 78-68.2(c) were wrongly applied to the detriment of the petitioner;

- (2) Whether the petitioner promptly abated continuing environmental damage resulting from the violation giving rise to the assessment;
- (3) Whether the violation giving rise to the assessment was inadvertent or the result of an accident;
- (4) Whether the petitioner has been assessed civil penalties for any prior violations pursuant to this article or by any state or federal authority enforcing substantially similar provisions;
- (5) Whether payment of the civil penalty by the petitioner will prevent payment for any remaining, necessary remedial action.

(i) *[Submittal of additional information and records.]* After submitting a petition for remission, the petitioner shall provide such additional information and records as may be reasonably necessary or convenient to the executive director's consideration of the petition. The executive director may remit the entire amount of a civil penalty only when the petitioner has not been assessed civil penalties for any prior violation of this article or by state or federal authority enforcing substantially similar provisions and the payment of the civil penalty will prevent payment of any remaining, necessary remedial action.
(Ord. No. 2013-19, § 10, 8-19-13)

Sec. 78-71. Affirmative defenses to discharge violations.

1. *Upset.*

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.
- (b) A user wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;

- (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user has submitted the following information to the executive director within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
 - (i) A description of the indirect discharge and cause of noncompliance;
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

2. *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 section

78-62.1(a) of this article or the specific prohibitions in subsections 78-62.1(b)(2), (3), (5) through (7), and (9) through (31) 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:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when WSACC was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

3. *Bypass.*

- (a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (b) and (c) of this section.
- (b) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the executive director at least ten days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the executive director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to

continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The executive director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

- (c) (1) Bypass is prohibited, and the executive director may take an enforcement action against a user for a bypass, unless:
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) 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
 - (iii) The user submitted notices as required under paragraph (b) of this section.
- (2) The executive director may approve an anticipated bypass, after considering its adverse effects, if the executive director determines that it will meet the three conditions listed in paragraph (c)(1) of this section.

(Ord. No. 2013-19, § 11, 8-19-13)

Sec. 78-72. Reconnection of utility service after termination.

- (a) Any person applying for water or sewer service after the termination of water or sewer service pursuant to any provision of this article shall not receive such service without written approval of the executive director or his designee.

(b) WSACC shall approve such application under the following conditions:

- (1) Such person is not delinquent in paying any water or sewer bill;
- (2) Full payment has been made for all costs incurred by WSACC in removing, severing or otherwise discontinuing water or sewer service to such person;
- (3) Full payment has been made for fees and costs associated with providing the requested service and installing the necessary facilities;
- (4) Full payment has been made for all civil penalties assessed against such person pursuant to this ordinance and for all damages to the POTW which such person is required to pay by the provisions of this ordinance;
- (5) If such person is required to have a wastewater discharge permit before discharging wastewater into the POTW, such person must apply for and accept a wastewater discharge permit containing such provisions as WSACC determines to be reasonably necessary. The provisions of section 78-70 will not apply to the denial of a permit to such person or to granting a permit subject to conditions unacceptable to such person.

(c) This section shall apply to every application for water or sewer service by any person subject to section 78-76(a) made within two years after water or sewer service has been terminated pursuant to this article.

(d) Any person applying for a connection to provide water or sewer service to all or any portion of the property served by a connection removed pursuant to any provision of this article shall be required to pay all fees and charges for securing a new connection, without exception. Any fee or charge paid prior to the removal of the service connection shall be forfeited in its entirety and shall have no continued effect.
(Ord. No. 2013-19, § 12, 8-19-13)

Sec. 78-73. Tampering with, damaging sewerage works.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any materials, structure, appurtenance or equipment which is a part of the wastewater treatment system or belongs to WSACC, including that left upon the premises of a user discharging wastewater into the POTW. The user shall be responsible for the safety of such equipment and may be held liable in the event of any such damage.

(Ord. No. 2013-19, § 13, 8-19-13)

Sec. 78-74. Falsifying information; damage to monitoring equipment.

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance or wastewater discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall, upon conviction, be punished by a fine of not more than \$500.00 or by imprisonment for not more than six months, or by both.

(Ord. No. 2013-19, § 14, 8-19-13)

Sec. 78-75. New construction.

New sewers and new connections shall be properly designated and constructed in accordance with such guidelines as published by the Environmental Protection Agency, reference 40 CFR section 35.927-4. All new connections shall conform with the North Carolina plumbing codes.

(Ord. No. 2013-19, § 15, 8-19-13)

Sec. 78-76. Use of public sewers.

The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes under the jurisdiction of this article and abutting on any street, alley, or rights-of-way in which there is or may be located a wastewater sewer connected to the treatment facility of WSACC, is required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly to the proper

sewer in accordance with the provisions of this article, within 90 days after date of official notice to do so provided the proper wastewater sewer is within 300 feet of the property line. This section shall not apply to any person served by a privately constructed, owned, operated, or maintained wastewater sewer and wastewater treatment facility that discharges directly to a natural outlet in accordance with the provisions of this article and applicable state and federal laws.

(Ord. No. 2013-19, § 16, 8-19-13)

Sec. 78-77. Private sewage disposal.

Regulations concerning private sewage disposal will be enforced by the Cabarrus Health Alliance in accordance to 10 NCAC 10A.1900.

(Ord. No. 2013-19, § 17, 8-19-13)

Sec. 78-78. Outside connections.

Any person owning or controlling premises located beyond the corporate limits or boundaries of WSACC and desiring to install a plumbing system for the purpose of discharging domestic sewage and/or industrial waste into the POTW may do so by complying with the requirements of this ordinance and of the public utility having jurisdiction over the sanitary sewer to which the connection is proposed to be made.

(Ord. No. 2013-19, § 18, 8-19-13)

Sec. 78-79. Special agreements.

Nothing in this article shall be construed as preventing any special agreement or arrangement between the board of directors and any user of the wastewater treatment system whereby wastewater of unusual strength, character or quantity is accepted into the system and specially treated subject to any payments or user charges as may be applicable, provided such wastewater will not interfere with the treatment process, sludge disposal options, NPDES permit compliance or cause a violation of water quality standards.

(Ord. No. 2013-19, § 19, 8-19-13)

Sec. 78-80. Severability.

If any provision, paragraph, word, section or article of this chapter is invalidated by any court

of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

(Ord. No. 2013-19, § 20, 8-19-13)

Sec. 78-81. 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. 2013-19, § 21, 8-19-13)

Sec. 78-82. Public notification of untreated waste and wastewater discharges.

(a) All wastewater spills that reach the surface waters (regardless of volume) and all spills to the ground surface exceeding 1,000 gallons (regardless of whether they are contained or reach surface waters) should be reported by the discharger to the state's Department of Environment and Natural Resources regional office.

(b) Whenever a discharge of untreated wastewater of 1,000 gallons or more reaches surface waters, a press release must be sent by the discharger to all print and electronic news media providing general coverage in the county where the discharge occurred. The press release is to be issued within 48 hours of the determination that the wastewater has reached surface waters. A copy of the press release and a list of the media to which it was distributed must be kept on file by the user for at least one year and copies made available upon request.

(c) If the untreated discharge to the surface waters is 15,000 gallons or more, the discharger must issue a press release and a notice of the discharge must be published in a newspaper with general circulation in the county where the discharge occurred and in each county downstream that is significantly affected. The Secretary of the Department of Environment and Natural Resources determines which counties are significantly affected, and publication must occur within

ten days of this determination and DENR's approval of the form and content of the notice and the newspapers in which it is to be published.
(Ord. No. 2013-19, § 22, 8-19-13)

Chapters 79–81

RESERVED

Chapter 82

VEHICLES FOR HIRE

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Secs. 82-1–82-25. Reserved.

Article II. Ambulances

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ARTICLE I. IN GENERAL

Secs. 82-1–82-25. Reserved.

ARTICLE II. AMBULANCES***DIVISION 1. GENERALLY****Sec. 82-26. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambulance means any privately or publicly owned motor vehicle, aircraft, or vessel that is specially designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation upon the streets or highways, waterways, or airways of this state of persons who are sick, injured, wounded, or otherwise incapacitated or helpless.

- (1) *Category I ambulance* means an emergency vehicle used to transport patients with medical conditions of an emergency nature or patients for which the need for emergency medical care is anticipated either at the scene of the emergency or enroute to a medical facility. Category I ambulances may be used to transport all types of patients.
- (2) *Category II ambulance* means a vehicle used solely to transport sick or infirm patients having a known and nonemergent medical condition on a scheduled basis between medical facilities or between a residence and a medical facility. Category II ambulances must not be used to transport patients defined under any other category of ambulance.

Ambulance provider means an individual, firm, corporation or association who engages or professes to engage in the business or service of transporting patients in an ambulance.

*Cross references—Emergency services, ch. 26; traffic and vehicles, ch. 74.

Attendant means an individual who actually attends to the patient, in the ambulance and at the scene, at all times during provision of ambulance service until such patient is delivered to his destination.

Board means the county board of commissioners or its designated representative.

Cabarrus County Emergency Medical Service System, sometimes referred to as Cabarrus County EMS, means the network of services that provides for the detection and reporting of medical emergencies; prompt and effective initial medical care at the scene of an accident, injury or illness; transportation and effective medical care and treatment en route to an appropriate medical facility; and care of the patient until he is discharged, referred or admitted for definitive medical care.

CMED means the central medical emergency dispatch operated through the county communications center. CMED is operated by the county and is manned at all times to receive and process requests for emergency and other services. Among other dispatch and communications activities, CMED is responsible for dispatch, communications and coordination of all emergency ambulance service operations in the county.

Emergency ambulance service means the service rendered by the operation of an ambulance to the scene where an emergency patient is in need of immediate medical care, emergency first aid or basic or advanced life support procedures, and transportation to an emergency medical facility.

Emergency medical facility means a designated area within a hospital where there is available, on a 24-hour basis, staffing by highly qualified medical and hospital support personnel, all types of specialists, blood banks, general and special purpose operating rooms, diagnostic facilities and equipment capable of rendering complex and comprehensive emergency medical care.

Emergency medical technician means an individual who meets all requirements and regulations of the state and is currently certified as an emergency medical technician in and by the state. The emergency medical technician is the individual who is responsible for the medical aspects

of the mission prior to arrival at the hospital, assuming no other person of higher certification or license is available.

Franchise means a permit issued by the county for operation of an ambulance or ambulance service. There are two types of franchises granted: nonemergency ambulance service and emergency ambulance service.

Franchisee means any ambulance provider which has been issued a franchise by the county for the operation of an ambulance.

Medical facility means any facility providing direct or supportive medical or convalescent care, diagnostic services, referral services, inpatient care, clinical services, etc. Medical facilities include, but are not limited to, hospitals, clinics, doctor's offices, nursing homes, minor emergency centers, etc.

Nonemergency ambulance service means the service rendered by an ambulance providing nonemergency medical necessity transportation of nonemergency patient to, from or between medical facilities or residences.

Operator means a person in actual physical control of a vehicle which is in motion or which has the engine running.

Patient means an individual who is sick, injured, wounded or otherwise incapacitated or helpless.

- (1) *Emergency patient* means a patient for which the need for emergency medical care is anticipated either at the time of service or enroute to a medical facility or whose condition is medically unstable or any patient whose request for service is due to traumatic injury or a medical problem with sudden or acute onset of symptoms at the time service is requested. Emergency patients also include those patients who require, may require or are receiving intensive care procedures as defined in North Carolina Administrative Code, Subchapter 32H - Mobile Intensive Care, Section .0402 through .0402 inclusive, at any time while ambulance service is being provided.
- (2) *Nonemergency patient* means a sick or infirm patient with either a known, nonur-

gent or nonemergent medical condition for which emergency medical care is neither anticipated at the time of service nor enroute to their destination. Nonemergency patients may be referred to in this article as convalescent patients.

Nonemergency patients also include those patients of any hospice program with which the nonemergency ambulance service provider contracts to provide transportation services and for whom no emergency medical care is to be provided in accordance with lawful and appropriate orders from the patients' physician.

A long-term or chronically ill patient with an indwelling naso-gastric or urinary catheter may be classified as a nonemergency patient for local ambulance transportation (call origin and destination within the county) when the patient's physician authorizes transportation by a nonemergency ambulance service provider at the time of service, when no medical care or procedures are required en route, and when such authorization is documented on the ambulance call report. A patient with an venous line in place may only be transported as a nonemergency patient if the intravenous line is discontinued while ambulance service is being provided (i.e., no intravenous infusion at any time while ambulance service is being provided), or the if the patient is being transported by an entity providing service as described in section 82-31 or 82-51(b)(3).

(Ord. of 9-4-90, § 1)

Cross reference—Definitions generally, § 1-2.

Sec. 82-27. Violations and penalties.

(a) Any ambulance provider charging in excess of the rates authorized by the county, pursuant to this article shall be subject to a civil penalty of \$50.00 for each violation.

(b) Any violation of the provisions of this article shall be a misdemeanor punishable by a fine not to exceed \$50.00 or imprisonment not to exceed 30 days.

(c) Each day that any violation of, or failure to comply with, this article is committed or permitted to continue shall constitute a separate and

distinct offense under this section and shall be punishable as such pursuant to this section. Each ambulance run unlawfully performed shall be considered a separate offense. Each incident of willful falsification of data by a franchisee shall be considered a separate offense.

(d) The county manager may, if he shall find that any person, firm or entity is operating an ambulance in the county in violation of the provisions of this article, and after notice to such person, firm or entity of any such violation, apply to the superior court for a temporary and/or permanent restraining order or injunction to restrain such person, firm or entity from continuing such illegal practice. If upon such application, it shall appear to the court that such person, firm or entity has violated or is violating the provisions of this article, the court may issue the requested injunctive relief. Injunctive relief as provided in this subsection may be granted regardless of whether criminal prosecution has been or may be instituted under the provisions of this article. (Ord. of 9-4-90, § 16)

Sec. 82-28. Compliance with article and state laws; review by emergency medical service system.

(a) Each franchised ambulance provider shall at all times comply with all applicable state laws and provisions of this article.

(b) Each franchised ambulance provider's records, operations and activities shall be subject to review by the county emergency medical service system for compliance with the terms and requirements of this article. (Ord. of 9-4-90, §§ 6(a), 13)

Sec. 82-29. Inspections.

Each franchised ambulance provider, its equipment and the premises designated in the application and all records relating to its maintenance and operation as such, shall be open to inspection by the county or its designated representative during normal office hours to determine compliance with the provisions of this article. (Ord. of 9-4-90, §§ 6(d), 15)

Sec. 82-30. Emergency ambulance service.

(a) Each franchised emergency ambulance provider must provide such service on a 24 hours per day, seven days per week basis, and comply with all requirements for operators and attendants, equipment, ambulances and communications, for an emergency ambulance service franchise, pursuant to this article.

(b) Franchised emergency ambulance providers are permitted to engage in the provision of both emergency ambulance service and nonemergency ambulance service.

(c) Emergency ambulance service providers may transport emergency patients to emergency medical facilities only. (Ord. of 9-4-90, §§ 6.1, 15)

Sec. 82-31. Nonemergency ambulance service.

(a) Each franchised nonemergency ambulance provider must provide such service on a 24 hours per day, seven days per week basis, and comply with all requirements for attendants, equipment, ambulances and communications, for a nonemergency ambulance service franchise, pursuant to this article.

(b) Nonemergency ambulance providers not also franchised as emergency ambulance providers must comply with all state regulations and standards for either category I or category II ambulance providers. Each category II ambulance must be nonwhite in color. Bands or belts encircling the vehicle body must be nonorange in color. Emergency medical symbols, such as the Star of Life, or any other emergency medical markings, symbols, or emblems, including the word "emergency," must not be displayed in any advertisement, publication, or literature pertaining to nonemergency ambulance services. Provided, however, that any nonemergency service currently using the Star of Life in its advertising may continue to do so for a period of one year following September 4, 1990, and may continue to do so thereafter on any permanent sign identifying its place of business until such time as the sign is replaced.

(c) Franchised nonemergency ambulance providers may only engage in the provision of non-emergency ambulance service, and may only provide service for nonemergency patients as defined in this article, with respect to services originating within the county.

(d) A nonemergency ambulance provider may transport any nonemergency patient to, from or between medical facilities when such facility assumes medical responsibility and liability for patient care at all times during transport, when such facility provides a health care professional licensed to provide all necessary patient care to accompany the patient as attendant at all times during transport, i.e., staff physician or registered nurse, and when the transportation of the patient will not require the use of emergency warning devices, audible or visual, at any time during transport.

(e) Franchised nonemergency ambulance providers may not engage in the provision of emergency ambulance service nor provide service for emergency patients as defined in this article. If a franchised nonemergency ambulance provider or an entity providing service as described in section 82-51(b)(3) is confronted with a call for emergency service or is confronted with an emergency patient upon arrival at the scene, the attendant must immediately notify CMED of the situation and request immediate dispatch of an emergency ambulance or other instructions from CMED.

(f) If a nonemergency patient becomes an emergency patient during provision of nonemergency ambulance service, i.e., in transit, the attendant must immediately notify CMED of the situation. Dependent upon existing circumstances, CMED shall provide instructions to meet an emergency ambulance enroute or authorize transportation of the patient to an emergency medical facility. A nonemergency ambulance may only transport an emergency patient upon receipt of authorization from CMED, and may only transport such patient to the closest emergency medical facility as defined in this division.

(g) In any event wherein a nonemergency ambulance service attendant is confronted with an emergency patient, the attendant shall provide appropriate emergency first aid for the patient until such time as an emergency ambulance arrives to assume responsibility for the patient or

the patient is delivered to an emergency medical facility.

(Ord. of 9-4-90, §§ 6.2, 15)

Sec. 82-32. Indemnity and insurance.

(a) Each franchised ambulance service provider shall indemnify and save harmless the county, its agents and employees and assigns from and against all loss, cost, damages, expense and liability caused by an accident or other occurrence resulting in bodily injury, including death, sickness and disease to any person, or damage or destruction to property, real or personal, arising directly or indirectly from operations, products or services rendered pursuant to such franchise.

(b) Each franchised ambulance service provider shall maintain the following policies of insurance in amounts not less than those prescribed in this section. The county is to be included in these policies as an additional named insured and is to be provided a certificate of insurance which names the county as a certificate holder and which provides that the county shall be given 30 days' prior written notice of any change in coverage or modification or cancellation of any policy shown on the certificate. These policies must include, but are not limited to:

- (1) Automobile liability insurance coverage for owned, hired and nonowned vehicles in an amount of not less than \$100,000.00 per person and \$300,000.00 per accident for bodily injury and \$50,000.00 per accident for property damage.
- (2) Comprehensive general liability insurance coverage for the activities and services provided pursuant to the franchise in an amount not less than \$500,000.00 per occurrence. This insurance shall include coverage for products, completed operations and contractual liability assumed under the indemnity provisions of this section.
- (3) Ambulance attendants' errors and omissions coverage, including malpractice, in an amount not less than \$1,000,000.00 per occurrence for all attendants while on duty.
- (4) Workers' compensation and occupational disease insurance meeting the statutory re-

quirements of the state including employee liability insurance in an amount of not less than \$100,000.00.

All insurance limits specified in this section are subject to change at the discretion of the county; provided, however, that each franchised ambulance service provider shall have 90 days to meet any amended insurance limits as such may be changed from time to time.

(Ord. of 9-4-90, § 11; Ord. of 11-9-90)

Sec. 82-33. Communications.

(a) CMED is operated by the county and is responsible for the dispatch of emergency ambulances and for the communications and coordination of all emergency ambulance service operations in the county.

(b) Each ambulance shall be equipped with a two-way radio licensed by the Federal Communications Commission which must be in operative condition at all times the ambulance is in service.

(c) Each emergency ambulance must maintain direct radio communications with CMED at all times by way of the state designated VHF radio system. Communications shall be conducted on frequency 155.160 MHz or 155.280 MHz unless otherwise directed by CMED.

(d) Each emergency ambulance must provide direct radio communication, through CMED, with the emergency medical facility to which its patient is being transported.

(e) Each emergency ambulance provider which receives calls for emergency ambulance service directly, independent of and/or in addition to calls received by CMED, must provide for public access to its service on a 24 hours per day, seven days per week basis.

(f) Each nonemergency ambulance must be able to maintain an open line of communication with CMED at all times such ambulance is in service. Communication shall be provided for by way of the designated state rescue VHF simplex radio system operating on 155.280 MHz.

(g) Each nonemergency ambulance service may provide direct radio communication, through CMED, with the medical facility to which its pa-

tient is being transported on state rescue frequency 155.340 MHz.

(h) Each ambulance utilized in the dual capacity of providing both emergency and nonemergency ambulance service, pursuant to this article, must maintain communications with CMED in accordance with the standards established for emergency ambulances.

(Ord. of 9-4-90, § 10)

Sec. 82-34. Certification of ambulances.

(a) Each ambulance of a franchised ambulance provider shall at all times, when utilized as such, comply with all state regulations and standards and each such ambulance shall be currently certified by the state.

(b) Each ambulance of an emergency ambulance service provider shall be certified as a category I ambulance.

(c) Each ambulance of a nonemergency ambulance service provider shall be certified either as a category I or category II ambulance.

(Ord. of 9-4-90, § 9)

Sec. 82-35. Operators and attendants.

(a) Each emergency medical technician of a franchised ambulance service provider shall present a record of certification as an emergency medical technician awarded by the state when requested by the county.

(b) Ambulance service providers shall not allow any person to be employed or act as an ambulance operator or attendant unless such person meets all laws and regulations of the state and is currently certified as an emergency medical technician in and by the state.

(Ord. of 9-4-90, § 7)

Sec. 82-36. Ambulance equipment.

(a) Required equipment in each ambulance of a franchised ambulance provider shall include, as a minimum, at all times when the ambulance is in use as such, equipment conforming to all state regulations and standards for such ambulance's designated category.

(b) Emergency ambulance service providers ambulances shall meet category I ambulance equipment regulations and standards.

(c) Nonemergency ambulance service providers' ambulances shall meet either category I or category II ambulance equipment regulations and standards.

(Ord. of 9-4-90, § 8)

Sec. 82-37. Rates and charges.

(a) Each franchised ambulance provider shall submit a schedule of rates to the county for approval and shall not charge more than the rates approved by the board of county commissioners.

(b) Franchised ambulance providers receiving an operating subsidy from the county shall adhere to the rate schedule adopted by the board of county commissioners.

(c) No ambulance provider shall attempt to collect payment on emergency calls until the patient has reached an emergency medical facility, has received medical attention and is in a condition deemed by the physician fit to consult with the ambulance provider, but the ambulance provider may attempt to collect payment from family or guardian of the patient once the patient has been delivered to the appropriate emergency medical facility.

(d) On nonemergency calls, attempts to collect payment can be made before the ambulance trip begins; however, inability to pay shall not be grounds for denying service when such service is necessary, reasonable, or requested by a medical facility or medical professional, i.e., physician or registered nurse.

(Ord. of 9-4-90, § 14)

Sec. 82-38. Records.

Each ambulance provider shall maintain the following records:

(1) *Daily dispatch log.* The daily dispatch log shall show time call received, time ambulance dispatched, time arrived on scene, time departed scene, time arrived destination,

time in service and time returned to base. This log shall also include caller's name, address, phone number; address of point of pick-up; address of destination; dispatcher's name and whether call was emergency or nonemergency in nature. This log shall be kept in chronological order, by call, and shall provide a specific identifier, for each call, to allow for correlation with individual ambulance call reports related to patient information.

(2) *Ambulance call report.* The ambulance call report form shall include all times recorded in the subsection (1) of this section, and address of point of pick-up, address of destination, whether call was emergency or convalescent in nature and the identifier which correlates the ambulance call report to the daily dispatch log. This form shall also include patient name, patient address, patient phone number, patient condition, type of assistance or medical care provided the patient prior to arrival at destination, speedometer readings at beginning and end of trip, total trip miles, schedule of charges and signature of driver and attendant. The ambulance call report shall be so designed as to provide the patient with a copy thereof containing all required information. A copy of the ambulance call report may serve as receipt for any charges paid. The state ambulance call report form shall meet all the requirements set forth in this subsection for an ambulance call report.

(3) *Ambulance check list and inspection report.* The ambulance check list and inspection report shall list contents and description of operational readiness of each ambulance and shall be compiled daily and signed by a crew chief or attendant.

(4) *Accounts receivable form.* The accounts receivable form shall be kept on all partial and full payments with date of payments and account number.

(5) *Data sheet.* A data sheet shall be submitted quarterly to the county, through the county

emergency medical service office, and shall contain the following:

- a. Number of total calls.
- b. Number of emergency calls.
- c. Number of convalescent calls.
- d. Number of emergency patients transported.
- e. Number of convalescent patients transported.
- f. List of staff, employment status (driver, attendant, etc.) and copies of their current state certification.
- g. List of vehicles, equipment inventory, operating condition, and copies of vehicle state inspection reports.
- h. Copies of all daily dispatch logs and ambulance call reports.

Provided, to the extent that the state office of emergency medical services forms, or other applicable state forms provide information required by this subsection, such forms may be submitted to meet these requirements.
(Ord. of 9-4-90, § 12)

Sec. 82-39. Disasters, catastrophes.

The county reserves the right to call upon and mobilize the resources of any franchised ambulance provider in the event of any disaster, catastrophe or other exigent circumstances for which county resources are inadequate to respond. In such instance the county would assume operational control of all ambulance activities and provide for reimbursement of uncollectible accounts arising out of such activities at the approved rates and charges in effect at the time of service.
(Ord. of 9-4-90, § 15)

Sec. 82-40. Charlotte Motor Speedway, Inc.

The ambulance operating authority previously granted to Charlotte Motor Speedway, Inc., shall be deemed to be a franchise for emergency ambulance service and shall remain in full force

and effect; provided, however, the franchisee is required to meet all the standards established by this article for the operation of such services.
(Ord. of 9-4-90, § 15)

Secs. 82-41—82-50. Reserved.

DIVISION 2. FRANCHISE

Sec. 82-51. Required, exceptions.

(a) No person either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in or profess to be engaged in the business or service of the transportation of either nonemergency or emergency patients for calls originating within the county unless he is in compliance with all the requirements set forth in this article and has been granted a franchise for the operation of such business or service by the county pursuant to this article.

(b) The county is not required to have a franchise for the operation of the county emergency medical service system, including both emergency and nonemergency ambulance services. The county is required, however, to meet all the standards established by this article for the operation of such services. No franchise shall be required for any entity that:

- (1) Is rendering assistance to the county EMS system in the event of a major catastrophe or other exigent situation when requested by, and acting under the operational control of, the county EMS system for the duration of such catastrophe or situation.
- (2) Transports patients who are picked up beyond the limits of the county for transportation to locations within the county, but no such entity shall pick up patients within the county unless it is rendering assistance to the county EMS system as provided for in section 82-39, or is providing return transportation of an out-of-county resident.
- (3) Is owned, operated, employed or hired by, or under the service of a hospital or

hospital authority to transport such hospital's or hospital authority's non-emergency patients to, from or between medical facilities; providing, however, that such service shall comply with all state rules and regulations governing either category I or category II (non-emergency) ambulance providers.

- (4) Is a category IV air ambulance provider, in compliance with all state rules and regulations governing category IV air ambulances; providing, however, that such air ambulance shall not provide pre-hospital emergency medical service within the county unless requested by and coordinated with the county emergency medical service.

(c) A violation of this section is punishable as a misdemeanor.
(Ord. of 9-4-90, §§ 2, 15; Ord. No. 2021-32, § 13, 12-20-21)

Sec. 82-52. Application.

Applications for a franchise to operate ambulances in the county pursuant to this article shall be made upon such forms as may be prepared or prescribed by the county and shall contain:

- (1) The type of franchise requested, either non-emergency ambulance service or emergency ambulance service.
- (2) The name and address of the applicant.
- (3) The name under which the applicant does business or proposes to do business along with a certified copy of any articles of incorporation, partnership agreement, certificate of limited partnership, or assumed name certificate.
- (4) The training and experience of the applicant in the transportation and care of patients.
- (5) A description of and copy of the state certification for each ambulance operated by the applicant.

- (6) A copy of the state certification for each emergency medical technician employed by the applicant.
- (7) The location and description of the place from which it is intended to operate.
- (8) Audited or unaudited financial statements of the owner's operations in the county, in such form and in such detail as may be required by the county.
- (9) Any other information the county shall deem reasonably necessary for a fair determination of the capability of the applicant to provide ambulance service in the county in accordance with the requirements of state law and the provisions of this article.

(Ord. of 9-4-90, § 3)

Sec. 82-53. Hearing, investigation, standards for granting.

- (a) Upon receipt of an application for a franchise, the board shall schedule a time and place for a hearing on the application.
- (b) The county shall, prior to the hearing, cause such investigation as is deemed necessary to be made of the applicant and its proposed operations.

(c) A franchise may be granted if the board finds all of the following:

- (1) The public convenience and necessity requires the proposed ambulance service.
- (2) Each such ambulance and its required equipment have been certified by the state as acceptable for the type of franchise requested.
- (3) The applicant or its officers or partners are responsible persons to conduct or work in the proposed business.
- (4) Only duly certified emergency medical technicians are employed as operators and attendants by applicants for an ambulance service franchise.

- (5) That all the requirements of this article and all other applicable laws and ordinances have been met.
(Ord. of 9-4-90, § 4; Ord. No. 1997-13, 9-15-97)

Sec. 82-54. Geographical boundaries.

The franchise shall state the geographical boundaries, if any, of the area for which the franchise is granted. With six months' written notice to the franchised operator, the board may alter the geographical boundaries of the franchise.
(Ord. of 9-4-90, § 5)

Sec. 82-55. Change in ownership or management.

Any change of ownership or management of a franchised ambulance provider shall terminate the franchise and shall require a new application and a new franchise and conformance with all the requirements of this division as upon original franchising.
(Ord. of 9-4-90, § 6(b))

Sec. 82-56. Transferral.

No franchise may be sold, assigned, mortgaged or otherwise transferred without the approval of the county and a finding of conformance with all the requirements of this article as upon original franchising.
(Ord. of 9-4-90, § 6(c))

Sec. 82-57. Termination, suspension, revocation.

(a) The board shall issue a franchise pursuant to this division to an ambulance provider, to be valid for a term to be determined by the board, provided either party may, at its option, terminate the franchise after written notice to the other party given at least six months prior to the date of termination. The board may terminate a franchise only after holding a public hearing following publication of a notice of hearing once a week for two successive weeks before the hearing.

(b) No franchise granted maybe sold, assigned or transferred nor in any way rest in any person other than the applicant to whom the franchise is granted.

(c) If any franchised ambulance provider shall fail to comply with any provision of this article, then the board, after a hearing, upon 30 days' written notice, may suspend or revoke the franchise. If upon such hearing, the board shall find that the franchise holder has corrected any deficiencies and has brought himself into compliance with the provisions of this article, the franchise shall not be suspended or revoked.

(d) Upon suspension, revocation or termination of an ambulance franchise pursuant to this section, such ambulance provider shall immediately cease operations as such. Upon suspension, revocation or termination for any reason of an emergency medical technician license or certificate pursuant to this article, such person who previously held such license or certificate shall cease to function as an operator or attendant on an ambulance.
(Ord. of 9-4-90, § 5)

CODE COMPARATIVE TABLE

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This is a chronological listing of the ordinances of the county used in this Code. Repealed or superseded laws and any omitted materials are not reflected in this table.

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